

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

Andy Montroll, Chair
Bruce Baker, Vice Chair
Yves Bradley
Alex Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member



PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance

ZA-16-11 Enforcement Period of Limitations

ZA-16-12 Rezone Fletcher Place to Residential Medium

ZA-17-01 Off-Site Parking

ZA-17-02 Family Daycare Exceptions & Preschools

ZA-17-03 Withhold Permit

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on the following proposed amendments to the City of Burlington's *Comprehensive Development Ordinance* (CDO). The public hearing will take place on **Tuesday, September 27, 2016** beginning at **6:45pm** in Contois Auditorium, City Hall, 149 Church Street, Burlington, VT.

Pursuant to the requirements of 24 V.S.A. §4444(b):

Statement of purpose: This amendment is proposed to the Burlington CDO as follows:

- **ZA-16-11 Enforcement Period of Limitations:** The purpose of this amendment is to establish "Section 2.7.11 Enforcement Period of Limitations," pursuant to 24 V.S.A. §4454 and this section, pertaining to zoning violations which have been known to the City of Burlington for more than 15 years and where the City has not taken corrective action to address the violation. This ordinance establishes burden of proof, and a process through which properties with use, dimension, structure, function or other violations can seek to be "stabilized." Finally, this amendment removes references to "Bianchi controlled situations" in Part 3: Non-Conformities.
- **ZA-16-12 Rezone Fletcher Place to Residential Medium:** The purpose of this amendment is to rezone residential properties along Fletcher Place from Institutional to Residential Medium in order to promote residential density and uses which are consistent with the existing neighborhood character.
- **ZA-17-01 Off-Site Parking:** The purpose of this amendment is to clarify the existing zoning provisions for off-site parking and to provide for efficient and effective use of parking facilities generally. The amendment establishes additional parameters for what constitutes acceptable off-site parking facilities and also strengthens the provision for off-site parking used to meet required parking. Reference to the design review standards of Article 6 is also inserted.
- **ZA-17-02 Family Daycare Exceptions & Preschools:** The purpose of this amendment is to align the definition of Daycare to be consistent with state regulatory review; to assure exemption from zoning requirements as noted, and to affirmatively distinguish daycare use from home occupations.
- **ZA-17-03 Withhold Permit:** The purpose of this proposed amendment is to create additional incentive to correct outstanding zoning violations and to prompt action to close out expired permits in need of certificates of occupancy. Properties with outstanding

zoning violations or open and expired zoning permits may not receive new zoning permits until those items are addressed.

Geographic areas affected: the proposed amendments are applicable to the following areas in the City of Burlington:

- **ZA-16-11:** This amendment is applicable to all zoning districts within the City of Burlington.
- **ZA-16-12:** This amendment is applicable to 12 residential properties on Fletcher Place; this amendment does not apply to 34 Fletcher Place.
- **ZA-17-01:** This amendment is applicable City-wide, except for single and two-family dwellings.
- **ZA-17-02:** This amendment is applicable to all zoning districts in which daycares and preschools are permitted by right, or through conditional use.
- **ZA-17-03:** This amendment is applicable to all zoning districts within the City of Burlington.

List of section headings affected:

- **ZA-16-11:** Within Article 2, Part 7, this amendment adds “Section 2.7.11 Enforcement Period of Limitations” and renumbers “Section 2.7.12 Administrative Appeal.” Within Article 5, Part 3, this amendment modifies “Section 5.3.1 Purpose” and strikes “Section 5.3.2 ‘Bianchi controlled uses, structures and lots.’”
- **ZA-16-12:** This amendment applies to “Map 4.3.1-1 Base Zoning Districts.”
- **ZA-17-01:** This amendment modifies “Section. 8.1.12 Limitations, Location, and Use of Facilities,” modifies “Section. 8.1.15 Waivers from Parking Requirements/Parking Management Plans,” and adds a definition in “Section.13.1.2 Definitions.”
- **ZA-17-02:** This amendment adds “Section 3.1.2. (c) 10,” modifies the Family Day Care Home definition in “Section 13. Definitions,” modifies “Section 5.4.1 Small Day Care Center,” and modifies “Appendix A- Use Table.”
- **ZA-17-03:** This amendment adds “Section 2.7.8 Withhold Permit.”

The full text of the *Burlington Comprehensive Development Ordinance* and the proposed amendment is available for review at the Department of Planning and Zoning, City Hall, 149 Church Street, Burlington Monday through Friday 8:00 a.m. to 4:30 p.m. or on the department's website at www.burlingtonvt.gov/pz.

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

*Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member*



Burlington Planning Commission

Tuesday, September 27, 2016, 6:00 P.M.
Contois Auditorium, City Hall, 149 Church Street
AGENDA

*Note: times given are
approximate unless
otherwise noted.*

I. Agenda

II. Public Forum- Time Certain 6:00 p.m.

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

III. Report of the Chair

IV. Report of the Director

V. Proposed CDO Amendment: ZA-17-04 Neighborhood Activity Center- Cambrian Rise

The Commission will continue its discussion of the proposed Neighborhood Activity Center – Cambrian Rise (NAC-CR) amendment, which was modified following the September 13 public hearing. The purpose of this amendment is to facilitate the conservation and redevelopment of the former Burlington College property by creating a new neighborhood mixed-use district on North Avenue that will allow for a range of housing types with associated neighborhood-oriented, small-scale retail and services.

VI. Municipal Bylaw Amendment Report: ZA-16-14

City Council modified the proposed amendment ZA-16-14 Downtown Mixed Use Core Overlay District, and has returned it to the Planning Commission to update the Municipal Bylaw Amendment Report. The Commission should return the report to City Council prior to the public hearing on September 29, 2016.

VII. Public Hearing ZA-16-11: Enforcement Period of Limitations - Time Certain- 6:45pm

The Commission will hold a public hearing on ZA-16-11, a proposed amendment to the Comprehensive Development Ordinance to establish an enforcement period of limitations on zoning violations which have been known to the City for more than 15 years, but for which the City has not taken corrective action.

VIII. Public Hearing ZA-16-12: Rezone Fletcher Place to R-M

The Commission will hold a public hearing on ZA-16-12, a proposed amendment to the Comprehensive Development Ordinance to rezone parcels along Fletcher Place from Institutional to Residential-Medium Density.

This agenda is available in alternative media forms for people with disabilities. Individuals with disabilities who require assistance or special arrangements to participate in programs and activities of the Dept. of Planning & Zoning are encouraged to contact the Dept. at least 72 hours in advance so that proper accommodations can be arranged. For information, call 865-7188 (865-7144 TTY). Written comments may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401.

IX. Public Hearing ZA-17-01: Off-Site Parking

The Commission will hold a public hearing on ZA-17-01, a proposed amendment to the Comprehensive Development Ordinance to clarify existing provisions for off-site parking, and to address the shared use of parking facilities after-hours and during weekends.

X. Public Hearing ZA-17-02: Family Daycare Exemptions and Preschools

The Commission will hold a public hearing on ZA-17-02, a proposed amendment to the Comprehensive Development Ordinance to define Family Day Care Homes and corresponding exemptions from zoning permit requirements, and correct an omission of "Preschools" from Appendix A: Use Table.

XI. Public Hearing ZA-17-03: Withhold Permit

The Commission will hold a public hearing on ZA-17-03, a proposed amendment to the Comprehensive Development Ordinance to withhold new zoning permits for properties with outstanding zoning violations and expired permits.

XII. Committee Reports

XIII. Commissioner Items

XIV. Minutes & Communications

The Commission will review and approve the minutes of the September 13, 2016 meeting and a communication.

XV. Adjourn

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

*Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member*



Burlington Planning Commission **Tuesday, September 27, 2016, 6:00 P.M.** **Contois Auditorium, City Hall, 149 Church Street** **AGENDA**

*Note: times given are
approximate unless
otherwise noted.*

I. Agenda

II. Public Forum- Time Certain 6:00 p.m.

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

III. Report of the Chair

IV. Report of the Director

V. Proposed CDO Amendment: ZA-17-04 Neighborhood Activity Center- Cambrian Rise

The Commission will continue its discussion of the proposed Neighborhood Activity Center – Cambrian Rise (NAC-CR) amendment, which was modified following the September 13 public hearing. The purpose of this amendment is to facilitate the conservation and redevelopment of the former Burlington College property by creating a new neighborhood mixed-use district on North Avenue that will allow for a range of housing types with associated neighborhood-oriented, small-scale retail and services. The proposed amendment and municipal bylaw amendment report is included in the agenda packet on pages 3-23.

VI. Municipal Bylaw Amendment Report: ZA-16-14

City Council modified the proposed amendment ZA-16-14 Downtown Mixed Use Core Overlay District, and has returned it to the Planning Commission to update the Municipal Bylaw Amendment Report. The Commission should return the report to City Council prior to the public hearing on September 29, 2016. Information related to this item are included in the agenda packet on pages 24-45.

VII. Public Hearing ZA-16-11: Enforcement Period of Limitations - Time Certain- 6:45pm

The Commission will hold a public hearing on ZA-16-11, a proposed amendment to the Comprehensive Development Ordinance to establish an enforcement period of limitations on zoning violations which have been known to the City for more than 15 years, but for which the City has not taken corrective action. The proposed amendment and Municipal Bylaw Amendment Report are included in the agenda packet on pages 48-51.

This agenda is available in alternative media forms for people with disabilities. Individuals with disabilities who require assistance or special arrangements to participate in programs and activities of the Dept. of Planning & Zoning are encouraged to contact the Dept. at least 72 hours in advance so that proper accommodations can be arranged. For information, call 865-7188 (865-7144 TTY). Written comments may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401.

Planning Commission Agenda
September 27, 2016
Page 1 of 73

VIII. Public Hearing ZA-16-12: Rezone Fletcher Place to R-M

The Commission will hold a public hearing on ZA-16-12, a proposed amendment to the Comprehensive Development Ordinance to rezone parcels along Fletcher Place from Institutional to Residential-Medium Density. The proposed amendment and Municipal Bylaw Amendment Report are included in the agenda packet on pages 52-53.

IX. Public Hearing ZA-17-01: Off-Site Parking

The Commission will hold a public hearing on ZA-17-01, a proposed amendment to the Comprehensive Development Ordinance to clarify existing provisions for off-site parking, and to address the shared use of parking facilities after-hours and during weekends. The proposed amendment and Municipal Bylaw Amendment Report are included in the agenda packet on pages 54-59.

X. Public Hearing ZA-17-02: Family Daycare Exemptions and Preschools

The Commission will hold a public hearing on ZA-17-02, a proposed amendment to the Comprehensive Development Ordinance to define Family Day Care Homes and corresponding exemptions from zoning permit requirements, and correct an omission of "Preschools" from Appendix A: Use Table. The proposed amendment and Municipal Bylaw Amendment Report are included in the agenda packet on pages 60-65.

XI. Public Hearing ZA-17-03: Withhold Permit

The Commission will hold a public hearing on ZA-17-03, a proposed amendment to the Comprehensive Development Ordinance to withhold new zoning permits for properties with outstanding zoning violations and expired permits. The proposed amendment and Municipal Bylaw Amendment Report are included in the agenda packet on pages 66-67.

XII. Committee Reports

XIII. Commissioner Items

XIV. Minutes & Communications

The Commission will review and approve the minutes of the September 13, 2016 meeting, enclosed on pages 68-72, and a communication on page 73.

XV. Adjourn

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)
www.burlingtonVT.gov/pz



MEMORANDUM

TO: Burlington Planning Commission
FROM: David E. White, AICP, Director of Planning & Zoning
DATE: Wednesday, September 21, 2016
RE: Proposed ZA-17-04 NAC-Cambrian Rise

This comes to you regarding the proposed redevelopment and associated zoning amendment for the former St. Josephs Orphanage/Burlington College property on North Avenue and in follow-up to your 13 September public hearing. This memo summarizes recommended changes to the public hearing draft per your discussion.

Building Height

The maximum base height has been reduced to 65-ft which is consistent with the maximum height currently allowed on the Orphanage parcel. This, coupled with the additional 10-ft of height provided by-right to inclusionary projects in Article 9 – Inclusionary Housing, should enable new buildings to achieve the desired height along any proposed streets while accommodating for the sloping site.

Lot Coverage

With the reference to the additional 20% lot coverage afforded by-right to inclusionary housing projects in Article 9 – Inclusionary Housing, the base lot coverage has been reduced to 60% which is consistent with the current WRM zoning.

Inclusionary Housing

We have added the proposed NAC-CR to Table 9.1.13-1 and Table 9.1.13-2 in Article 9 – Inclusionary Housing which provides additional height and lot coverage by-right to inclusionary housing projects to be consistent with the current WRM zoning, and we have corrected several internal references to sections and tables within Article 9, Part 1 overall.

Proposed Uses

Finally, we have made the following modifications to Appendix A – Use Table:

- Micro-Brewery – Conditional Use
- Machine/Woodworking Shop – Conditional Use, less than 4,000 sqft
- Public Transit Terminal – Permitted Use
- Research Lab - Conditional Use, less than 4,000 sqft

With these changes we recommend that the Commission forward the proposed amendment, and the accompanying Ch. 117 report, to the City Council for their consideration with a recommendation for adoption.

Thank you.

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

(802) 865-7142 (TTY)

www.burlingtonvt.gov/PZ

David E. White, AICP, Director
Scott Gustin, AICP, Principal Planner
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Project Planner/GIS
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Anita Wade, Planning & Zoning Clerk
Elsie Tillotson, Department Secretary



Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-17-04 Neighborhood Activity Center- Cambrian Rise

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

This amendment is to facilitate the redevelopment of the former St. Joseph's Orphanage/Burlington College property in a manner that is consistent with the results of a community planning process for the site. This amendment will advance many of the central goals and objectives found in the Burlington Municipal Development Plan regarding providing a greater diversity of housing choices, open space protection, and shoreland protection. This amendment creates a new neighborhood mixed-use district on North Avenue that will allow for a range of housing types and price levels to accommodate diverse ages and incomes, with associated neighborhood-oriented, small-scale retail and service uses.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

The amendment is in conformance with, and furthers many of the Municipal Development Plan's policies regarding housing, including:

- Encourage a healthier regional balance of affordable housing in each community, proximate to jobs and affording mobility and choice to low income residents.
- Support the development of additional housing opportunities within the city, with concentrations of higher-density housing within neighborhood activity centers, the downtown and institutional core campuses.
- Encourage a wide range of housing options to meet different and changing needs of households with children, the elderly, people with disabilities, and moderate- and low-income households.

Compatibility with the proposed future land uses and densities of the municipal development plan:

The amendment is in conformance with, and furthers many of the Municipal Development Plan's policies regarding land use and density, including:

- Encourage mixed-use development patterns, at a variety of urban densities, which limit the demand for parking and unnecessary automobile trips, and support public transportation.
- Target new and higher density development in the Downtown, Downtown Waterfront, Enterprise District, Institutional Core and the Neighborhood Activity Centers.
- Encourage development of an active, urban waterfront that offers a mix of uses, is open to the public, and linked to adjacent neighborhoods.

- Maintain or increase the ratio of publicly owned or permanently protected natural areas to developed land.

Furthermore, this area is identified as a potential neighborhood activity center on the *Future Land Use Map: Centers for Growth and Development* included in the land use section of the municipal development plan.

Implementation of specific proposals for planned community facilities:

As a result of a community planning process for the former St. Joseph's Orphanage/Burlington College property, this amendment furthers plans for a dense concentration of new, mixed-income housing, neighborhood-oriented commercial uses, and development that is clustered toward North Avenue, rather than the lakeshore. Per the plans, this amendment also expands publicly-owned and accessible land, by supporting the purchase and preservation of 12 acres of open space along the shoreline of Lake Champlain for public use through the Conservation Fund.

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-17-04 NAC – Cambrian Rise

As proposed for Planning Commission Public Hearing – 9/13/2016.

With staff proposed corrections and additions

Changes shown (underline to be added, strike-out to be deleted) are proposed changes to the Burlington Comprehensive Development Ordinance.

Purpose: This amendment is to facilitate the redevelopment of the former St. Josephs Orphanage/Burlington College property in a manner that is consistent with the results of a community planning process for the site that will advance many of the central goals and objectives found in the *Burlington Municipal Development Plan* regarding providing a greater diversity of housing choices, open space protection, and shoreland protection. This amendment creates a new neighborhood mixed-use district on North Avenue that will allow for a range of housing types and price levels to accommodate diverse ages and incomes with associated neighborhood oriented small-scale retail and service uses. Finally, this amendment corrects internal references to sections and tables within Article 9, Part 1 Inclusionary Zoning

Article 4: Zoning Maps and Districts, Part 3: Zoning Districts Established

Sec. 4.3.1 Base Districts Established:

The following zoning districts are hereby established as illustrated in Map 4.3.1-1 and further described in Part 4 below.

(a) A series of five (5) **Downtown Mixed Use** districts: (*see Sec. 4.4.1*)

- Downtown (D);
- Downtown Transition (DT);
- Downtown Waterfront (DW);
- Downtown Waterfront –Public Trust (DW-PT); and,
- Battery Street Transition (BST);

(b) A series of ~~three-four~~ (34) **Neighborhood Mixed Use** districts: (*see Sec. 4.4.2*)

- Neighborhood Mixed Use (NMU);
- Neighborhood Activity Center (NAC); ~~and~~
- ~~Neighborhood Activity Center - Riverside Corridor (NAC-RC); and~~
- Neighborhood Activity Center – Cambrian Rise (NAC-CR);

(c) A series of two (2) **Enterprise** districts: (*see Sec. 4.4.3*)

remaining section unchanged...

Sec. 4.4.2 Neighborhood Mixed Use Districts

(a) Purpose:

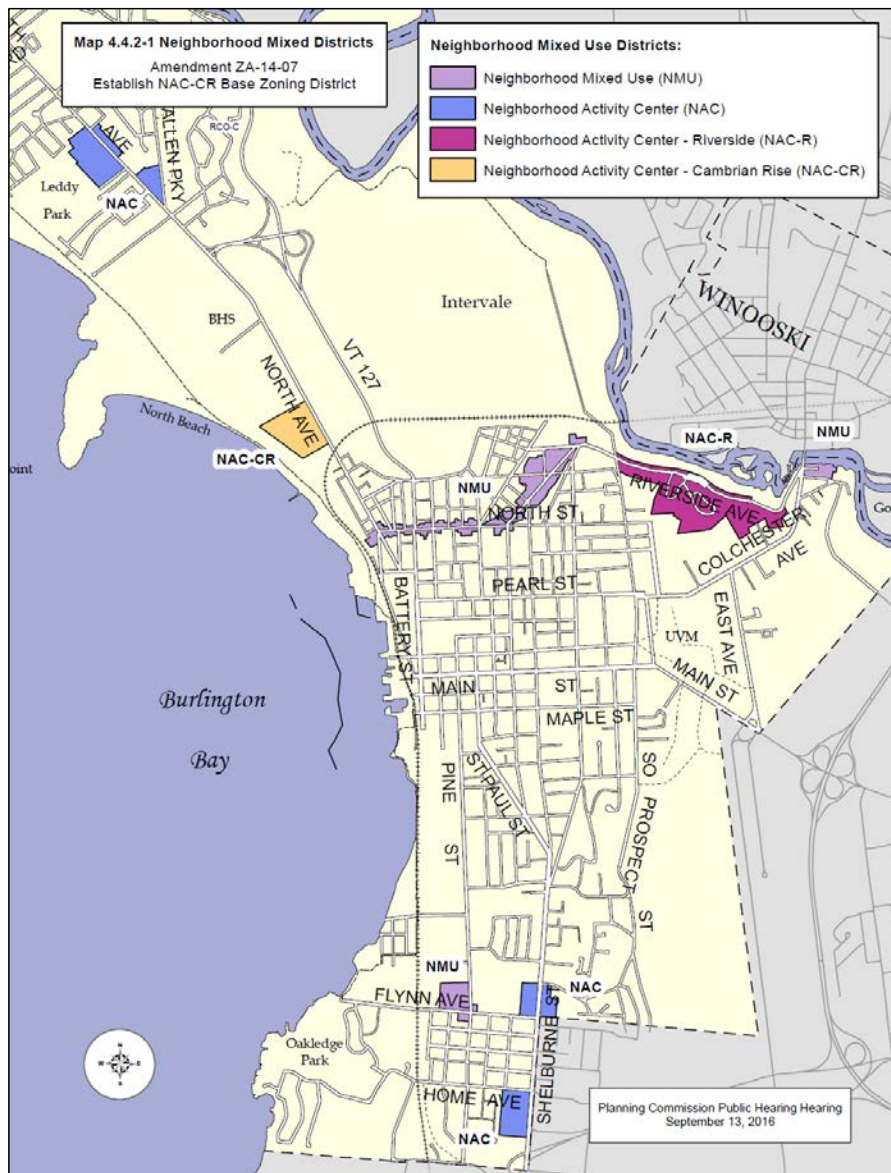
The Neighborhood Mixed Use districts promote development that combines non-residential and residential uses on a single site. These zones allow an increased intensity of development than would typically be found in the surrounding residential areas, and provides neighborhood oriented goods and services and employment opportunities within walking and biking distance. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new commercial and residential opportunities in the City. The emphasis of nonresidential uses should primarily be oriented to serving the needs of the surrounding residential neighborhoods and other neighborhood commercial uses.

Development is intended to consist primarily of businesses on the ground floor with housing and other non-residential uses on upper stories. ~~The exception to this is the NAC – Cambrian Rise district that is intended to be more residential in nature than the other Neighborhood Mixed Use districts and thereby is expected to incorporate residential uses at the street level.~~ Development is intended to be pedestrian-oriented with buildings oriented to the sidewalk, especially at corners. Parking is intended to be hidden from the street, since ~~their~~ its appearance is ~~generally~~ out of character with the surrounding residential development and the desired orientation of the buildings.

The ~~3-4~~ Neighborhood Mixed Use districts as illustrated in Map 4.4.2-1 are further described as follows:

1. The **Neighborhood Activity Centers** (NAC) are intended to provide convenient neighborhood and city wide-oriented goods and services and employment opportunities within walking or biking distance of many of the city's residential areas;
2. The **Neighborhood Mixed Use** (NMU) district is intended to preserve and enhance historically commercial areas while reinforcing the compact scale and development patterns within the city's older neighborhoods. Uses are intended to provide neighborhood oriented goods and services and employment opportunities within walking or biking distance of residential neighborhoods; and,
3. The **NAC – Riverside** (NAC-R) is intended to allow commercial development in areas already predominantly built along this important travel corridor while encouraging emerging mixed-use development. The zone allows a full range of retail and service businesses with a local or regional market orientation. Light industrial uses are allowed but limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves. Parking is intended to be placed behind or to the side of principle buildings.

3.4. The NAC – Cambrian Rise (NAC-CR) is intended to create a new center for mixed use development that allows for a range of housing types and tenures, and to accommodate a diverse range of complimentary general office, institutional and neighborhood oriented small-scale retail and service uses. Much of the development is intended to be densely concentrated and oriented towards North Avenue, with new buildings that are complimentary to the iconic historic former-orphanage. Development should be compact, pedestrian-oriented and enhance the community with creative design, durable materials, and quality construction. Buildings fronting on North Avenue should be oriented toward and activate North Avenue, while Buildings fronting on new streets should be oriented toward and activate those streets. Buildings and landscaping should work together to contribute to the physical definition of streets as civic places, with buildings at and near the street level composed of human-scaled elements and details that promote pedestrian interest, comfort, and safety. Parking should be hidden behind, to the side, within, or underneath principle buildings, and screened from view from public streets and community spaces.



Map 4.4.2-1 Neighborhood Mixed Use Districts

Staff revisions to PC Public Hearing DRAFT – 9/13/2016

(b) Dimensional Standards and Density:

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.2 -1 Dimensional Standards and Density

Districts	Max. Intensity (floor area ratio ¹)	Max. Lot Coverage ¹	Minimum Building Setbacks (feet)			Building Height ¹ (feet)
			Front ^{4,3}	Side ²	Rear ²	
NAC	2.0 FAR	80% ^{5,3}	0	0	0	Min: 22', 2 stories Max: 35'
NMU	2.0 FAR	80%	0 ^{6,0,5}	0	0	Min: 20' 22', 2 stories ³ Max: 35'
NAC-Riverside	2.0 FAR	80%	0	0	0	Min: 20' 22', 2 stories ³ Max: 35'
NAC-CR	2.0 FAR	60%	Min. 0' ⁷ Max. 20' ⁷	10' ⁶	20' ⁶	Min: 22', 2 stories Max: 65' ⁶

1. Floor area ratio is defined in Art. 13 and described in Art 5 Sec. 5.2.7. Measurement of and exceptions to height limits are found in Sec 5.2.6. Bonuses for additional FAR and height where available are described in section (d)3 below, and additional height, FAR and lot coverage is afforded by-right for inclusionary housing projects under Sec. 9.1.12. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.

2. Structures shall be setback a minimum of 15-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split between neighborhood mixed use and residential zones are exempt from this district boundary setback.

3. Minimum building height shall be 20-feet and 2-story's. Measurement of and exceptions to height standards are found in Art 5. Bonuses for additional building height are described in section (d)3 below.

4.3. A structures Structures shall be setback a minimum of 12-feet from the curb on a public street.

5.4. Exceptions to minimum maximum lot coverage are provided in (d)2.

5. Notwithstanding footnote 34, the NMU district at the intersection of Pine St. and Flynn Avenue shall have a minimum front yard setback of 10 feet.

6. Side and rear setbacks are applicable only to the periphery of the NAC-CR district and not to individual parcels within the district.

7. Front yard setbacks for Buildings fronting on North Avenue shall be 20' min and 30' max.

Commented [DEW1]: reduced to current WRM coverage, but adding footnote to reference additional coverage allowed for all IZ projects

Commented [DEW2]: reduced to current allowed height given orphanage, but adding footnote to reference additional height allowed for all IZ projects

Commented [DEW3]: added to provide general reference to two sections that provide for additional density, coverage and height elsewhere in the CDO.

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Neighborhood Mixed Use districts shall be as defined in Appendix A – Use Table.

(d) District Specific Regulations:**1. Ground Floor Residential Uses Restricted**

In order to maintain an active streetscape for pedestrians and pedestrian-oriented businesses and activities, residential uses shall not be permitted within 25-feet of a public street right-of-way along the street-level frontage in the NAC District. This restriction shall not apply in the NAC – Riverside and NAC – Cambrian Rise districts.

Article 9. Inclusionary and Replacement Housing, Part 1: Inclusionary Zoning

Sec. 9.1.1 thru 9.1.7 unchanged

Sec. 9.1.8 Inclusionary Units, Rental and Sales

For covered projects in which units are offered for rent or sale, a base of fifteen percent (15%) of all of the dwelling units in the project, graduated as specified in Table 9.1.~~98~~-1, shall be designated as inclusionary units

This includes any covered project where units are offered for sale via the conveyance of a deed or share for individual units, including fee simple ownership, condominium ownership and cooperative ownership.

<u>Table 9.1.98-1 Inclusionary Zoning Percentages</u>	
If the average sale and rental price of project units is affordable to a household earning:	The percentage of units which are subject to rent and sales prices as per Sec. 9.1. 40-9 and are subject to marketing and continued affordability provisions (Sec. 9.1. 44-10 and Sec. 9.1. 42-11) shall be:
Less than 139% of median income	15%
140%-179% of median income	20%
Development in any Waterfront district (RM-W, RL-W, <u>NAC-CR and DW</u>) or 180% of median income and above in any other district	25%

Sec. 9.1.9-9.1.11 remain unchanged...

Staff revisions to PC Public Hearing DRAFT – 9/13/2016

Sec. 9.1.12 Additional Density and Other Development Allowances

All covered projects shall be entitled to increases in the development allowances of the underlying zoning district in accordance with the provisions of this section.

- (a) Any covered project shall be entitled to an increase in the maximum coverage allowed for the site on which the project is located following the calculation of density, height, lot coverage, setbacks, and parking improvements for the site. Calculations for these entitlements shall be based on the following tables:

Table 9.1.12-1 Density/Intensity Allowance Table			
Zoning District	Additional Allowance	Maximum Units/Acre	FAR
RH	15%	46	n/a
RM, RM-W	20%	25	n/a
RL, RL-W	25%	8.75	n/a
D, DT, DW	n/a	n/a	0.5 FAR+10' height set back 10' along street facade
NMU, NAC, NAC-R, NAC-CR, BST	n/a	n/a	0.5 FAR+10' height set back 10' along street facade

Commented [DEW4]: add new district with no change to density/intensity allowance from WRM

Table 9.1.12-2 Lot Coverage Allowance Table		
Zoning District	Additional Allowance	Maximum Lot Coverage
RH, NMU, NAC, NAC-R	15%	92%
RM-W, NAC-CR	20%	72%
RM	20%	48%
RL, RL-W	25%	44%

Commented [DEW5]: add new district with no change to coverage allowance from WRM

remaining section (b) thru (e) is unchanged...

Sec. 9.1.13 Off-Site Option

The DRB, upon a finding that unique, difficult and/or challenging site conditions exist that prevent the inclusionary units from being constructed upon the same site as the market units, may allow any developer of a covered project that is not located within a waterfront zoning

Staff revisions to PC Public Hearing DRAFT – 9/13/2016

district ~~or the NAC-CR~~ to comply ~~with the requirements of Sec. 9.1.9 and 9.1.12~~ by constructing inclusionary units on a site within the City of Burlington other than that on which the covered project is located, subject to the following conditions:

Commented [DEW6]: add reference to new district as being treated as a “waterfront” district and subject to this exclusion from the off-site

Commented [DEW7]: duplicative with same reference that appears later in the same section – see larger set of reference correction to this Article

(a) *thru (c) unchanged*

(d) All of the provisions of Sections 9.1.9-8 through 9.1.12-11 shall apply without exception to off-site inclusionary units under the provisions of this section;

(e) *and (f) unchanged*

Sec. 9.1.14 General Requirements for Inclusionary Units

All covered projects must comply with the requirements set forth below.

(a) *thru (d) unchanged*

(e) Except for household income limitations as set forth herein, occupancy of any inclusionary unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project unless required under federal law, e.g. local use of the Low Income Housing Tax Credit, or in conflict with the stricter bylaws of the designated housing agency ~~(see Sec 9.1.15(e));~~ and

Commented [DEW8]: incorrect and nothing else applicable

(f) *unchanged*

Sec. 9.1.15 Marketing of Inclusionary Units

Any applicant developing a covered project shall adhere to the following provisions with respect to the initial offering of inclusionary units for sale or rental:

(a) *thru (b) unchanged*

(c) Trust Fund Waiver.

If the Manager of the HTF, in consultation with the other members of the HTF Administrative Committee or its designee, fails to exercise its option by failing to negotiate and sign a purchase and sale agreement for the inclusionary units, or if the Manager declares its intent not to exercise its option, the developer shall offer the units for purchase to households earning less than the median income referenced in Section 9.1.12-11. If requested by the developer, the Manager of the HTF shall execute documents that may be recorded in the Burlington Land Records to evidence said waiver of the option;

(d) Time of Closing.

Closing on inclusionary units purchased by the Housing Trust Fund Manager shall occur on or after the time of issuance of the certificate of occupancy. If the Housing Trust Fund Manager fails to close on these inclusionary units, the developer shall offer the unit for

purchase or rent to households earning less than the median income referenced in Section 9.1.~~4211~~, adjusted for household size;

(e) *unchanged*

(f) Rentals.

In the case that the inclusionary units are being offered for rent rather than for sale, the Manager shall also be notified in the manner prescribed by subsection (a) regarding Trust Fund Notification, and the Manager and developer shall cooperate in order to rent such units to individuals meeting the income guidelines of Sec 9.1.~~4211~~(a).

Sec. 9.1.16 Continued Affordability Requirements

All covered projects shall comply with the following provisions to ensure continued affordability of inclusionary units provided under this article and units required to be continually affordable under Section 9.1.~~916~~.

(a) *thru (e) unchanged*

(f) Sublet Restrictions.

Provisions for continued affordability of inclusionary units shall prohibit subletting rental units for a price exceeding that which is affordable for a household with an annual income that is seventy-five percent (75%) of median for the County or the City, whichever is less, consistent with the relationship between unit size and household size set forth in Section 9.1.~~4211~~.

Appendix A-Use Table – PROPOSED: ZA-17-04 – NAC - Cambrian Rise

	Residential			Neighborhood Mixed Use			
USES	RL/W	RM/W	RH	NMU	NAC	NAC-RC	NAC-CR
RESIDENTIAL USES	RL/W	RM/W	RH	NMU	NAC	NAC-RC	NAC-CR
Single Detached Dwelling	Y	Y	N	N	N	N	<u>N</u>
Accessory Dwelling Unit (See Art.5, Sec.5.4.5)	Y	Y	N	N	N	N	<u>N</u>
Attached Dwellings - Duplex	CU ²	Y	Y	Y ³	N	Y	<u>N</u>
Attached Dwellings - Multi-Family (3 or more)	N	Y	Y	Y	Y	Y	<u>Y</u>
Attached Dwelling(s) – Mixed-Use ²⁶	CU	CU	CU	Y	Y	Y	<u>Y</u>
RESIDENTIAL SPECIAL USES	RL/W	RM/W	RH	NMU	NAC	NAC-RC	NAC-CR
Assisted Living	CU	Y	Y	Y	Y	Y	<u>Y</u>
Bed and Breakfast ^{4, 6}	CU	CU	CU	Y	Y	Y	<u>N</u>
Boarding House ⁶ (4 persons or less)	CU	Y	Y	Y	Y	Y	<u>N</u>
Boarding House ⁶ (5 persons or more)	CU	CU	CU	CU	CU	CU	<u>N</u>
Community House (See Sec.5.4.4)	CU	CU	CU	CU	CU	CU	<u>CU</u>
Convalescent /Nursing Home	CU	Y	Y	Y	Y	Y	<u>Y</u>
Dormitory ⁵	N	N	N	N ²⁵	CU	CU	<u>N</u>
Group Home	Y	Y	Y	Y	Y	Y	<u>Y</u>
Historic Inn (See Sec.5.4.2)	CU	CU	CU	CU	Y	Y	<u>Y</u>
Mobile Home Park	CU	CU	N	N	N	N	<u>N</u>
Sorority/Fraternity ⁵	N	N	N	N	N	N	<u>N</u>
NON-RESIDENTIAL USES	RL/W	RM/W	RH	NMU	NAC	NAC-RC	NAC-CR
Adult Day Care	N	N	N	Y	Y	Y	<u>Y</u>
Agricultural Use ²⁰	N	N	N	N	N	N	<u>N</u>
Amusement Arcade	N	N	N	N	CU	CU	<u>CU</u>
Animal Boarding/Kennel/Shelter	N	N	N	N	CU	CU	<u>CU</u>
Animal Grooming	N	N	N	Y	Y	Y	<u>Y</u>
Animal Hospitals/Veterinarian Office	N	N	N	CU	CU	CU	<u>CU</u>
Appliance Sales/Service	N	N	N	Y ²⁴	Y	Y	<u>Y²⁴</u>
Aquarium	N	N	N	N	N	N	<u>N</u>
Art Gallery/Studio	N	N	CU ^{8, 13}	Y	Y	Y	<u>Y</u>
Auction House	N	N	N	N	Y	Y	<u>N</u>
Automobile Body Shop	N	N	N	N	N	Y	<u>N</u>
Automobile & Marine Parts Sales	N	N	N	CU	Y	Y	<u>Y</u>
Automobile/Vehicle Repair	N	N	N	CU ^{9, 12, 14}	CU ^{9, 12, 14}	CU ¹⁴	<u>N</u>
Automobile Sales – New & Used	N	N	N	N	Y	Y	<u>N</u>
Bakery - Retail	N ²²	N ²²	CU ^{8, 13}	Y	Y	Y	<u>Y</u>
Bakery - Wholesale	N	N	N	N	Y	Y	<u>N</u>
Bank, Credit Union	N ²²	N ²²	N ²²	Y	Y	Y	<u>Y</u>
Bar, Tavern	N	N	N	CU	CU	CU	<u>CU</u>
Beauty/ Barber Shop	N ²²	N ²²	CU ^{8, 13}	Y	Y	CU	<u>Y</u>
Bicycle Sales/Repair	N	N	N	Y	Y	Y	<u>Y</u>
Billiard Parlor	N	N	N	CU	Y	CU	<u>Y</u>
Boat Repair/Service	N	N	N	N	CU	CU	<u>N</u>
Boat Sales/Rentals	N	N	N	N	Y	Y	<u>N</u>
Boat Storage	N	N	N	N	CU	CU	<u>N</u>
Bowling Alley	N	N	N	CU	Y	Y	<u>Y</u>
Building Material Sales	N	N	N	N	Y ¹⁰	Y	<u>N</u>
Café	N ²²	N ²²	CU ^{8, 13}	Y	Y	Y	<u>Y</u>
Camp Ground	N	N	N	N	N	N	<u>N</u>
Car Wash	N	N	N	N	CU	Y	<u>CU</u>
Cemetery	N	N	N	N	N	N	<u>N</u>
Cinema	N	N	CU ⁸	CU ¹⁴	Y	N	<u>Y¹⁴</u>
Club, Membership	N	Y	Y	CU	CU	N	<u>CU</u>
Community Center	CU ¹³	CU ¹³	Y ¹³	Y	Y	Y	<u>Y</u>
Community Garden	Y	Y	Y	Y	Y	Y	<u>Y</u>
Conference Center	N	N	N	N	N	N	<u>N</u>
Composting	N	N	N	N	N	N	<u>N</u>
Contractor Yard	N	N	N	N	N	Y ¹⁰	<u>N</u>
Convenience Store (See Sec.5.4.3)	N	N	CU ^{8, 12}	Y ¹²	Y	Y	<u>Y¹²</u>
Convention Center	N	N	N	N	N	N	<u>N</u>

Appendix A-Use Table – PROPOSED: ZA-17-04 – NAC - Cambrian Rise

	Residential			Neighborhood Mixed Use			
USES	RL/W	RM/W	RH	NMU	NAC	NAC-RC	NAC-CR
Courthouse	N	N	CU	N	N	N	<u>N</u>
Crematory	N	N	N	N	N	CU	<u>N</u>
Crisis Counseling Center	CU	CU	CU	Y	Y	Y	<u>Y</u>
Daycare - Large (Over 20 children)	CU ¹³	CU ¹³	CU ¹³	Y	Y	Y	<u>Y</u>
Daycare - Small (7-20 children) (See Sec.5.4.1)	CU ¹³	CU ¹³	CU ¹³	Y	Y	Y	<u>Y</u>
Daycare - Home (6 children or less)	Y	Y	Y	Y	Y	Y	<u>Y</u>
Dental Lab	N	N	N	Y	Y	Y	<u>Y</u>
Distribution Center	N	N	N	N	N	CU	<u>N</u>
Dry Cleaning Plant	N	N	N	N	N	CU	<u>N</u>
Dry Cleaning Service	N ²²	N ²²	N ²²	Y ²⁴	Y	Y	<u>Y²⁴</u>
Film Studio	N	N	N	N	CU	Y	<u>CU</u>
Fire Station	CU	CU	CU	Y	Y	Y	<u>Y</u>
Food Processing	N	N	N	CU	CU	CU	<u>CU</u>
Fuel Service Station ⁹	N	N	N	CU ¹¹	Y ¹¹	Y	<u>N</u>
Funeral Home	CU ⁷	CU ⁷	CU ^{7, 8}	CU	Y	Y	<u>N</u>
Garden Supply Store	N	N	N	CU ²⁴	Y	Y	<u>N</u>
General Merchandise/Retail – Small <4,000sqft	N ²²	N ²²	N ²²	Y	Y	Y	<u>Y</u>
General Merchandise/Retail – Large ≥4,000sqft	N	N	N	N	CU ¹⁸	CU	<u>CU</u>
Grocery Store – Small ≤10,000sqft	N	N	CU ⁸	Y	Y	Y	<u>Y</u>
Grocery Store – Large >10,000sqft	N	N	N	N	Y	Y	<u>N</u>
Hazardous Waste Collection/Disposal	N	N	N	N	N	N	<u>N</u>
Health Club	N	N	CU ⁸	CU	Y	Y	<u>Y</u>
Health Studio	N ²²	N ²²	CU ⁸	Y	Y	Y	<u>Y</u>
Hospitals	N	N	CU	N	N	N	<u>N</u>
Hostel	N	N	CU	Y	Y	Y	<u>Y</u>
Hotel, Motel	N	N	N	N	Y	N	<u>Y</u>
Laundromat	N ²²	N ²²	CU ^{8, 13}	Y ¹³	Y	Y	<u>Y</u>
Library	CU	CU	Y	Y	Y	Y	<u>Y</u>
Lumber Yard	N	N	N	N	CU ¹⁰	Y	<u>N</u>
Machine/Woodworking Shop	N	N	N	CU	CU	CU	<u>CU²⁴</u>
Manufacturing	N	N	N	N	N	CU	<u>N</u>
Manufacturing - Tour Oriented	N	N	N	N	N	CU	<u>N</u>
Marina	N	N	N	N	N	N	<u>N</u>
Medical Lab	N	N	N	CU	Y	Y	<u>N</u>
Mental Health Crisis Center	N	CU (See §5.4.11)	N	N	N	N	<u>N</u>
Micro-Brewery/Winery	N	N	N	CU	Y	Y	<u>CU</u>
Museum–Small < 10,000 sqft	CU ¹³	CU ¹³	CU ^{8,13}	Y	Y	Y	<u>Y</u>
Museum-Large >10,000 sqft	N	N	N	N	CU	CU	<u>N</u>
Office - General	N	N	N	Y	Y	Y	<u>Y</u>
Office - Medical, Dental	N ²²	N ²²	N ²²	Y	Y	Y	<u>Y</u>
Open Air Markets	CU	CU	CU	Y	Y	Y	<u>Y</u>
Operations Center – Taxi/Bus ⁹	N	N	N	N	N	CU ¹¹	<u>N</u>
Operations Center - Trucking ⁹	N	N	N	N	N	Y ¹¹	<u>N</u>
Park	Y	Y	Y	Y	Y	Y	<u>Y</u>
Parking Garage ⁹	N	N	CU	CU	Y	N	<u>CU</u>
Parking Lot ⁹	N	N	N	N	CU	N	<u>N</u>
Performing Arts Center	N	N	N	CU	Y	N	<u>CU</u>
Performing Arts Studio	N	N	CU ¹³	CU	CU	CU	<u>Y</u>
Pet Store ¹⁰	N	N	N	CU	Y	Y	<u>Y</u>
Pharmacy	N ²²	N ²²	N ²²	Y	Y	Y	<u>Y</u>
Photo Studio	N ²²	N ²²	N	Y	Y	Y	<u>Y</u>
Photography Lab	N	N	N	CU	Y	Y	<u>Y</u>
Police Station - Central	N	N	N	Y	Y	Y	<u>N</u>
Police Station - Local	CU	CU	CU	Y	Y	Y	<u>Y</u>
Post Office – Central Distribution Center	N	N	N	N	Y	Y	<u>N</u>
Post Office - Local	N ²²	N ²²	N ²²	Y	Y	Y	<u>Y</u>

Formatted

Appendix A-Use Table – PROPOSED: ZA-17-04 – NAC - Cambrian Rise

USES	Residential			Neighborhood Mixed Use			
	RL/W	RM/W	RH	NMU	NAC	NAC-RC	NAC-CR
Printing Plant	N	N	N	N	N	CU	<u>N</u>
Printing Shop	N ²²	N ²²	N	CU	Y	Y	<u>Y</u>
Public Transit Terminal	N	N	N	N	CU	CU	<u>Y</u>
Public Works Yard/Garage ⁹	N	N	N	N	CU ¹¹	Y ¹¹	<u>N</u>
Radio & TV Studio	N	N	N	N	Y	Y	<u>Y</u>
Rail Equip. Storage & Repair	N	N	N	N	N	N	<u>N</u>
Recording Studio	N	N	CU ⁸	CU	CU	Y	<u>Y</u>
Recreational Facility - Indoor	N	CU	CU	N	Y	CU	<u>N</u>
Recreational Facility - Outdoor Commercial	N	N	N	N	N	CU	<u>N</u>
Recreational Facility - Outdoor	N	N	N	N	Y	Y	<u>CU</u>
Recreational Vehicle Sales – New and Used	N	N	N	N	CU	CU	<u>N</u>
Recycling Center – Large ¹⁰ (above 2,000 sf)	N	N	N	N	N	N	<u>N</u>
Recycling Center - Small ¹⁰ (2,000 sf or less)	N	N	N	CU	CU	CU	<u>CU</u>
Research Lab	N	N	N	N	CU	CU	<u>CU</u> ²⁴
Restaurant	N ²²	N ²²	CU ^{8, 13}	Y ¹³	Y	Y	<u>Y</u> ¹³
Restaurant – Take Out	N ²²	N ²²	N	Y ¹³	Y	Y	<u>Y</u> ¹³
Salon/Spa	N ²²	N ²²	N	Y	Y	Y	<u>Y</u>
School - Post-Secondary &Community College	N	CU	CU	CU	CU	CU	<u>CU</u>
School - Primary	CU	CU	CU	CU	CU	CU	<u>CU</u>
School - Secondary	CU	CU	CU	CU	CU	CU	<u>CU</u>
School, -Trade, or Professional	N	N	N	CU	N	N	<u>CU</u>
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	<u>N</u>
Tailor Shop	N ²²	N ²²	CU ⁸	Y	Y	Y	<u>Y</u>
Warehouse	N	N	N	N	N	Y ¹⁵	<u>N</u>
Warehouse, Retail ⁹	N	N	N	N	CU ¹⁵	CU ¹⁵	<u>N</u>
Warehouse, Self-Storage ⁹	N	N	N	N	N	Y ¹⁵	<u>N</u>
Wholesale Sales ⁹	N	N	N	N	N	Y ¹⁵	<u>N</u>
Worship, Place of	CU	CU	Y	Y	CU	CU	<u>CU</u>

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Small daycares in the RCO zones shall be conditional use and shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use.
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.
28. Grocery Stores up to but not to exceed 30,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	Zoning District
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
D	Downtown
DW	Downtown Waterfront
DT	Downtown Transition
BST	Battery Street Transition
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
NAC-CR	NAC – Cambrian Rise
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing

Zoning Amendment ZA-17-04

**Neighborhood Activity Center
- Cambrian Rise**

Burlington, Vermont

Legend

 Rezone RM-W to NAC-CR

Map Date: August 25, 2016

RCO-RG

Lakeview Cemetery

AVENUE

RL

RCO-C

Saint Joseph's

NAC-CR

RM-W

NORTH

RCO-RG

RM

Urban Reserve

UR

CONVENT
SQUARE

SUNSET COURT

BERRY ST

WASHING
AVENUE

LAKEVIEW

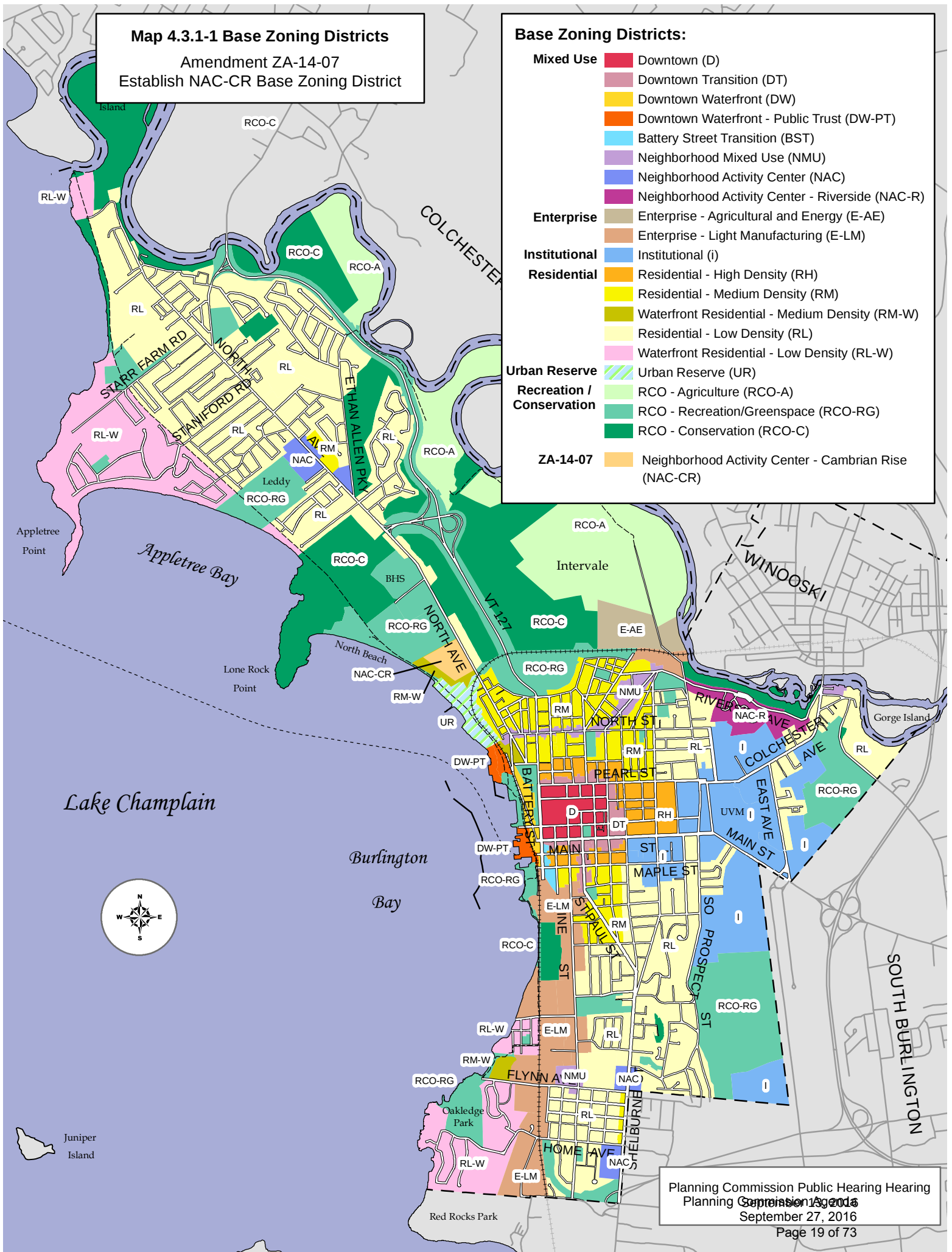


300 150 0 300 Feet

Map 4.3.1-1 Base Zoning Districts
 Amendment ZA-14-07
 Establish NAC-CR Base Zoning District

Base Zoning Districts:

- | | |
|----------------------------------|---|
| Mixed Use | Downtown (D) |
| | Downtown Transition (DT) |
| | Downtown Waterfront (DW) |
| | Downtown Waterfront - Public Trust (DW-PT) |
| | Battery Street Transition (BST) |
| | Neighborhood Mixed Use (NMU) |
| | Neighborhood Activity Center (NAC) |
| | Neighborhood Activity Center - Riverside (NAC-R) |
| Enterprise | Enterprise - Agricultural and Energy (E-AE) |
| | Enterprise - Light Manufacturing (E-LM) |
| Institutional | Institutional (i) |
| Residential | Residential - High Density (RH) |
| | Residential - Medium Density (RM) |
| | Waterfront Residential - Medium Density (RM-W) |
| | Residential - Low Density (RL) |
| | Waterfront Residential - Low Density (RL-W) |
| Urban Reserve | Urban Reserve (UR) |
| Recreation / Conservation | RCO - Agriculture (RCO-A) |
| | RCO - Recreation/Greenspace (RCO-RG) |
| | RCO - Conservation (RCO-C) |
| ZA-14-07 | Neighborhood Activity Center - Cambrian Rise (NAC-CR) |

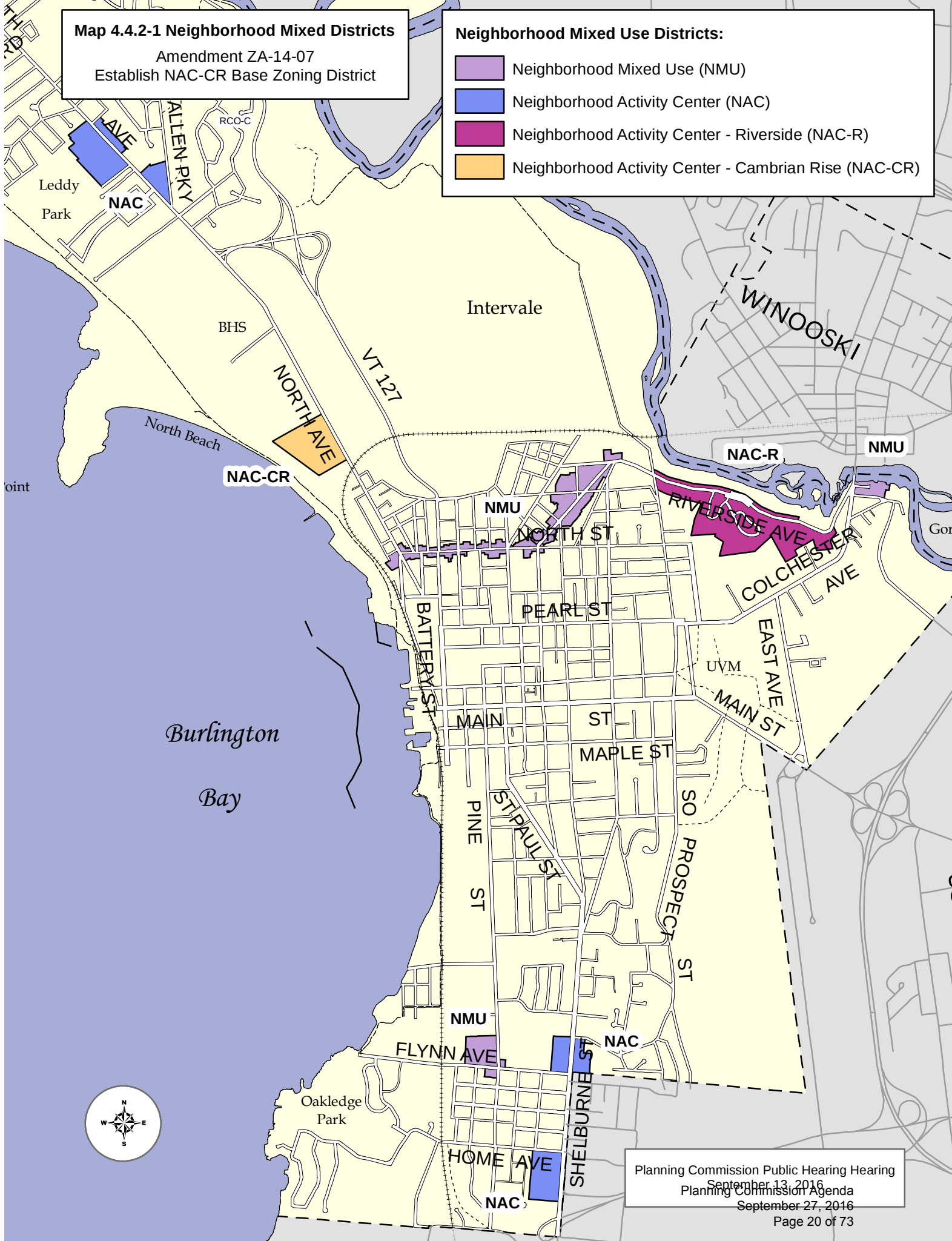


Map 4.4.2-1 Neighborhood Mixed Districts

Amendment ZA-14-07
Establish NAC-CR Base Zoning District

Neighborhood Mixed Use Districts:

-  Neighborhood Mixed Use (NMU)
-  Neighborhood Activity Center (NAC)
-  Neighborhood Activity Center - Riverside (NAC-R)
-  Neighborhood Activity Center - Cambrian Rise (NAC-CR)

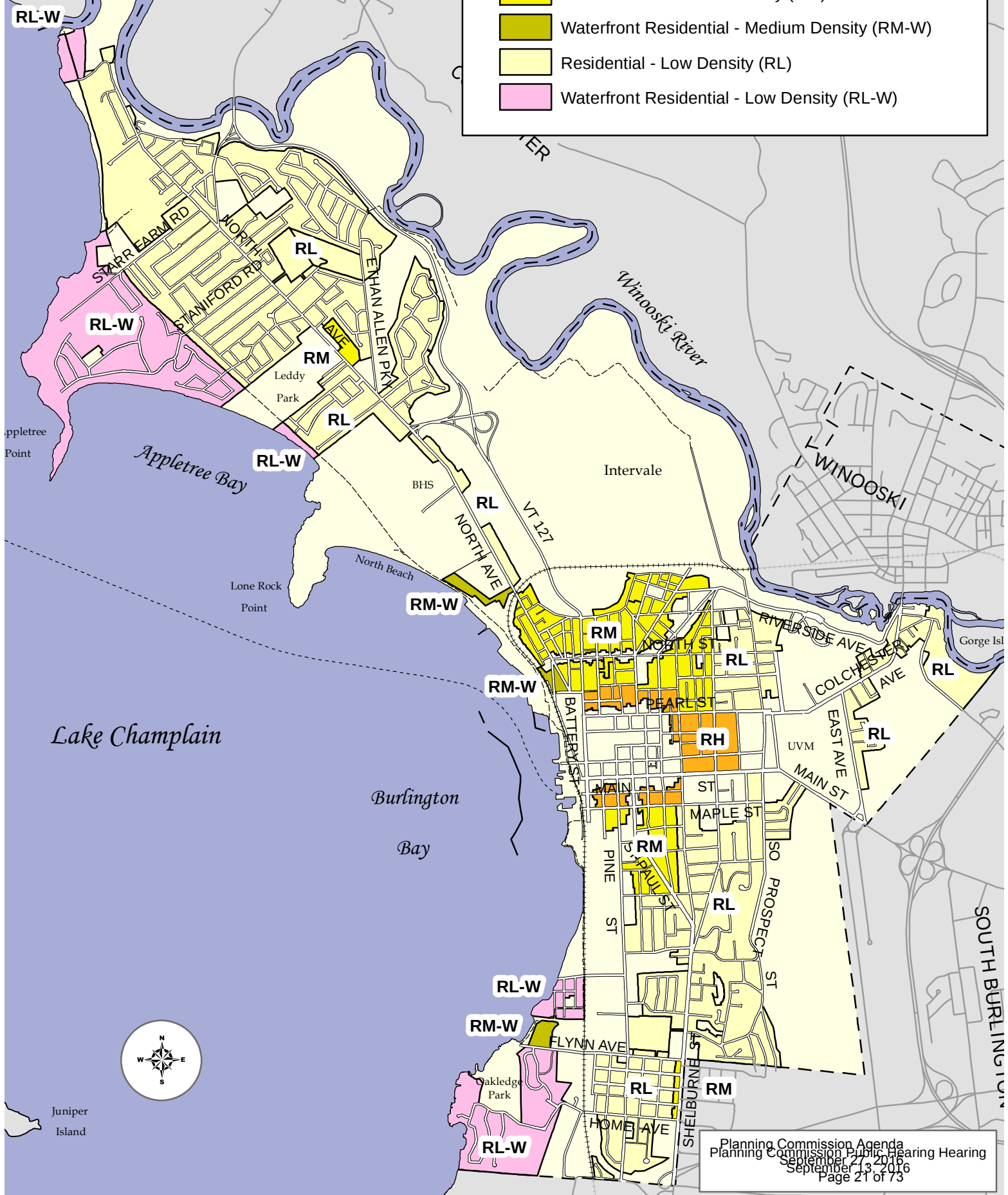


Map 4.4.5-1 Residential Zoning Districts

Amendment ZA-14-07
Establish NAC-CR Base Zoning District

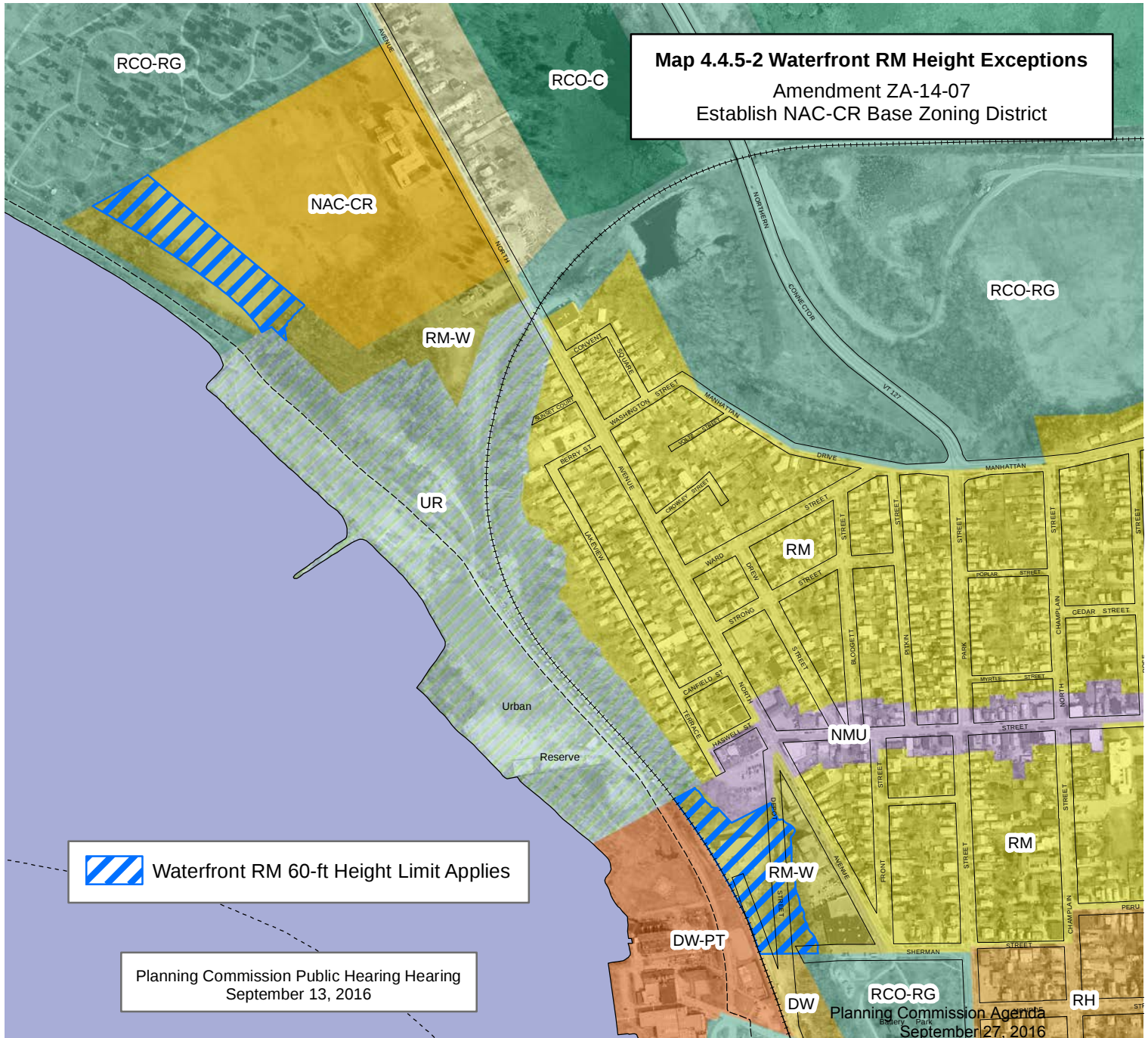
Residential Districts:

- Residential - High Density (RH)
- Residential - Medium Density (RM)
- Waterfront Residential - Medium Density (RM-W)
- Residential - Low Density (RL)
- Waterfront Residential - Low Density (RL-W)



Map 4.4.5-2 Waterfront RM Height Exceptions

Amendment ZA-14-07
Establish NAC-CR Base Zoning District



Waterfront RM 60-ft Height Limit Applies

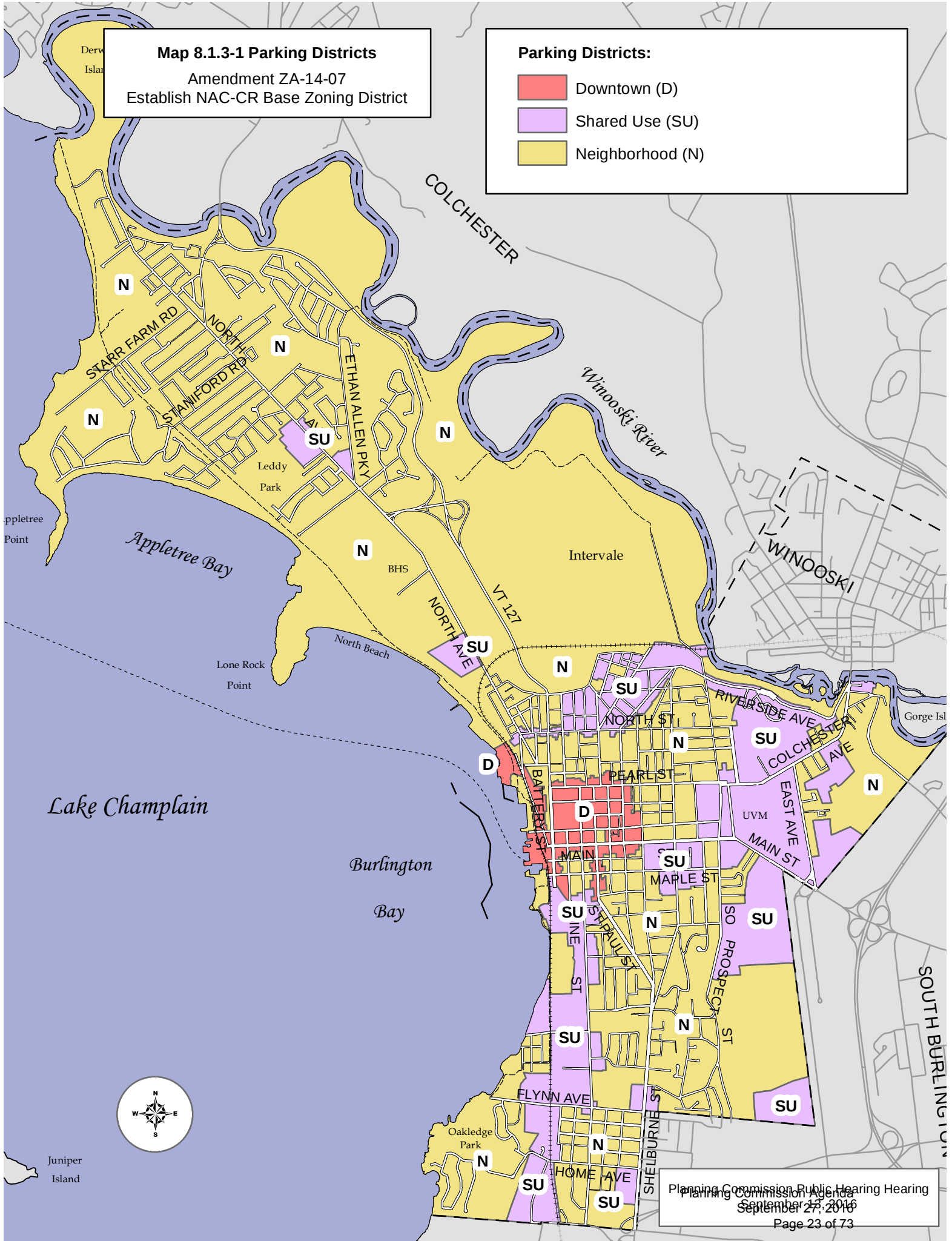
Planning Commission Public Hearing Hearing
September 13, 2016

Planning Commission Agenda
September 27, 2016

Map 8.1.3-1 Parking Districts
 Amendment ZA-14-07
 Establish NAC-CR Base Zoning District

Parking Districts:

- Downtown (D)
- Shared Use (SU)
- Neighborhood (N)



Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

www.burlingtonVT.gov/pz



MEMORANDUM

TO: Burlington Planning Commission
FROM: David E. White, AICP, Director of Planning & Zoning
DATE: Wednesday, September 21, 2016
RE: Proposed ZA-16-14 DMUC Overlay

This comes to you regarding the proposed ZA-16-14 Downtown Mixed-Use Core Overlay District transmitted to the City Council on July 7, 2016.

As you are aware, state statute (24 VSA 4441 (c)) requires the Planning Commission to include a report (the "Ch. 117 Report") with every proposed zoning amendment that documents (in summary):

- (1) conformance with the goals and policies contained in the municipal plan;
- (2) compatibility with the proposed future land uses and densities of the municipal plan; and,
- (3) implementation of specific proposals for any planned community facilities.

Further, according to 24 VSA 4442 (b):

"If any part of the proposal is changed, the legislative body at least 10 days prior to the hearing shall file a copy of the changed proposal with the clerk of the municipality and with the planning commission. The planning commission shall amend the report prepared pursuant to subsection 4441(c) of this title to reflect the changes made by the legislative body and shall submit that amended report to the legislative body at or prior to the public hearing."

Because the City Council has made changes to ZA-16-14 DMUC Overlay, the Commission has an opportunity to consider the necessity of making any changes to the report. For your reference included in the packet are copies of the Commission's original Ch 117 Report, the proposed amendment as changed by the City Council, and a summary of changes made by the Council. (In accordance with statute, some of this information was previous sent to you on 9/14/16.)

Because of the very high-level policy nature of the required Ch 117 Report, any changes to a proposed amendment would have to be very significant and result in a very different direction and outcome with regard to future development in order to necessitate changes to the Commission's original report. As you can see from the summary of Council changes, none effect the size or location of the overlay district, nor the scale, character and intensity of permitted development. As a result, **staff is recommending no changes to the Ch. 117 Report**, and that the Commission re-transmitt the original report the City Council for their Sept. 29 Public Hearing.

Thank you.

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

(802) 865-7142 (TTY)

www.burlingtonvt.gov/PZ

David E. White, AICP, Director
Scott Gustin, AICP, Principal Planner
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Project Planner/GIS
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Anita Wade, Planning & Zoning Clerk
Elsie Tillotson, Department Secretary



Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-16-14 – Downtown Mixed Use Core Overlay

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this amendment is to establish the Downtown Mixed Use Core (DMUC) Overlay district to facilitate the redevelopment of a portion of the former Urban Renewal area with higher density mixed-use development and to implement central goals and objectives in the unanimously adopted *planBTV Downtown & Waterfront Plan*. Additionally, it amends the City's Official Map to include two 60 ft. Rights of Way at St. Paul and Pine Streets between Bank and Cherry Streets.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

The proposed amendment to create the DMUC Overlay is intended to encourage redevelopment of a critical area within the core of Downtown Burlington, and is in conformance with many of the Municipal Development Plan's policies regarding housing, including:

- Encourage a healthier regional balance of affordable housing in each community, proximate to jobs and affording mobility and choice to low income residents.
- Support the development of additional housing opportunities within the city, with concentrations of higher-density housing within neighborhood activity centers, the downtown and institutional core campuses.

Furthermore, *planBTV Downtown & Waterfront Plan* was amended into the City's Municipal Development Plan in 2014, and identifies specific issues and opportunities for downtown Burlington. Regarding housing, *planBTV* identifies infill, redevelopment and adaptive reuse as important strategies to provide additional housing for all income ranges within the downtown core. The Burlington Town Center property is one site that is specifically identified as an opportunity for redevelopment. This property is fully incorporated into the proposed DMUC Overlay boundaries.

Compatibility with the proposed future land uses and densities of the municipal development plan:

The proposed amendment to create the DMUC Overlay is in conformance with many of the Municipal Development Plan's policies regarding land use and density, including:

- Encourage mixed-use development patterns, at a variety of urban densities, which limit the demand for parking and unnecessary automobile trips, and support public transportation.
- Strengthen the City Center District (CCD) with higher density, mixed-use development as part of the regional core while ensuring that it serves the needs of city residents, particularly those in adjacent neighborhoods.
- Target new and higher density development in the Downtown, Downtown Waterfront, Enterprise District, Institutional Core and the Neighborhood Activity Centers.

Furthermore, *planBTV Downtown & Waterfront Plan* identifies walkability, connectivity, scale, density, diversity and mixed-use as the core principles for a successful downtown. The proposed height, FAR, dimensional standards and urban design standards included in the proposed DMUC Overlay implement these principles for an area of the downtown which has been identified as a key location for more intensive, mixed use redevelopment to occur.

Implementation of specific proposals for planned community facilities:

It has long been the City's desire to reverse the detrimental impact on mobility and connectivity to and through the downtown core that resulted from the construction of a "superblock" in the City's former Urban Renewal area. Additionally, *planBTV* envisions new street connections located at St. Paul and Pine Streets between Bank and Cherry Streets. The proposed amendment expands the City's Official map to include both the Downtown and Waterfront, and identifies two 60ft ROW for future public streets in these locations.

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-16-14 – Downtown Mixed Use Core Overlay

*Planning Commission Public Hearing Draft (June 15, 2016)
with proposed **City Council Work Session** changes highlighted*

Changes shown (underline to be added, ~~strike-out~~ to be deleted) are proposed changes to the currently adopted *Burlington Comprehensive Development Ordinance*.

Purpose: This amendment is to facilitate the redevelopment of a portion of the former Urban Renewal District with higher density mixed use development in the core of the downtown, and in so doing substantially and significantly help the City to implement many of the central goals and objectives found in the *planBTV: Downtown and Waterfront Master Plan* unanimously adopted in June 2013 to guide the future development and economic vitality of the downtown and waterfront area. It creates an overlay district to encompass a 1-2 block area in the core of the downtown area to enable taller Building Height without the necessity of a “bonus” from the DRB. It also establishes a number of building form requirements to ensure street-level activation and façade variation.

Article 4: Zoning Maps and Districts, Part 2: Official Map

Sec. 4.2.1 Authority and Purpose

A map entitled “The Official Map of the City of Burlington” and as depicted on Map 4.2.1-1 below is hereby established pursuant to 24 VSA 4421 that identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements. The intent is to provide the opportunity for the city to acquire land identified for public improvements prior to development for other use, and to identify the locations of required public facilities for new subdivisions and other development under review by the city.

Map 4.2.1-1 Official Map of the City of Burlington (unchanged)

Sec. 4.2.2 ~~Downtown and Waterfront Core~~ Official Map Established

A map entitled “The Official Map of the Downtown and Waterfront Core” and as depicted on Map 4.2.2-1 below is established as part of the Official Map established above, ~~is to be dated as of the effective date hereof, is to be located in the department of zoning and planning and is incorporated herein by reference.~~ The proposed streets, public ways, public parks and other public lands and visual corridors contained therein are more particularly described as follows:

- (a) A pedestrian easement thirty (30) feet in width along the center line of Main Street

City Council Work Session DRAFT - 8/22/2016

extended to Lake Champlain west of the Union Station building;

(b) A waterfront pedestrian easement fifty (50) feet in width abutting the ordinary high water mark of Lake Champlain from Maple Street extended to College Street;

(c) A waterfront pedestrian easement one hundred (100) feet in width abutting the ordinary high water mark of Lake Champlain from College Street extended to the north property line of the city-owned lands designated as “urban reserve” and formerly owned by the Central Vermont Railway;

(d) Visual corridors and/or pedestrian ways sixty (60) feet in width along the center lines of Bank, Cherry, Pearl and Sherman streets extended west to Lake Champlain and visual corridors above the fourth floor along Main Street and College Street;

(e) The following existing streets remain: Maple and King Streets and as extended to Lake Champlain; Main street; College Street and as extended to Lake Champlain; Lake Street from Main Street to College Street; Depot Street; and Battery Street;

(f) An easement for pedestrians and bicycles twenty (20) feet in width, located adjacent to and west of the old Rutland railway right-of-way and owned by the State of Vermont running between the King Street Dock and College Street; ~~and,~~

(g) Lake Street (north) modified: The portion of Lake Street is a street seventy (70) feet in width, the center line of which commences on the north line of College Street thence running northerly following the center line of existing Lake to a point intersecting the northerly property line of the Moran Generating Station extended east.

(h) The re-establishment of St Paul Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles; and,

(i) The re-establishment of Pine Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles.



Map 4.2.2-1 Official Map of the Downtown and Waterfront Core ~~Waterfront Core Official Map~~

Article 4: Zoning Maps and Districts, Part 3: Zoning Districts Established**Sec. 4.3.2 Overlay Districts Established:**

Overlay districts are overlaid upon the base districts established above, and modify certain specified development requirements and standards of the underlying base district. the land so encumbered Properties within an Overlay District may be used and altered-developed in a manner permitted in the underlying district only if and to the extent such use or alteration is permitted in-as may be modified by the applicable overlay district. The following districts are established as overlay districts as further described in Part 5 below:

(a) A **Design Review Overlay (DR)** district;

(b) A series of five (5) **Institutional Core Campus Overlay (ICC)** districts, as follows:

- UVM Medical Center Campus (ICC-UVMMC);
- UVM Central Campus (ICC-UVM);
- UVM Trinity Campus (ICC-UVMT)
- UVM South of Main Street Campus (ICC-UVMS); and,
- Champlain College (ICC-CC);

(c) An **RH Density Bonus Overlay (RHDB)** district;

(d) A series of four (4) **Natural Resource Protection Overlay (NR)** districts, as follows:

- Riparian and Littoral Conservation Zone;
- Wetland Protection Zone;
- Natural Areas Zone; and,
- Special Flood Hazard Area;

(e) A **RL Larger Lot Overlay (RLLL)** district;

(f) A **Mouth of the River Overlay (MOR)** district; ~~and,~~

(g) A **Centennial Woods Overlay (CWO)** district; and,

(h) A Downtown Mixed Use Core (DMUC) district.

Sec. 4.4.1 Downtown Mixed Use Districts

(d) **District Specific Regulations, 4. Building Height Setbacks**

A. - unchanged

B. Church Street Buildings:

For the purposes protecting the historic character and scale of buildings along the Church Street Marketplace, the maximum height of any building fronting on Church Street shall be limited to ~~38-feet~~ 4-stories not to exceed 45-feet. Any portion of a building ~~within 100-feet from the centerline of Church Street exceeding 45-feet~~ shall be set-back a minimum of ~~16~~ 10-feet for every 10-feet of additional building height above ~~38~~ 45-feet.

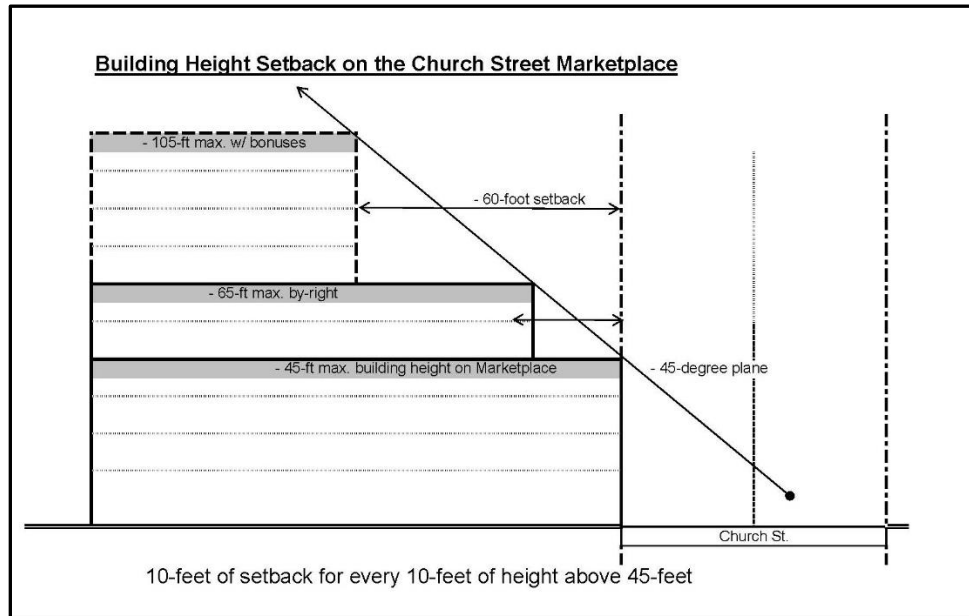


Figure 4.4.1-2 Measuring Height Limits for Church Street Buildings

C. - unchanged

Sec. 4.5.8 Downtown Mixed Use Core Overlay (DMUC) District

(a) Purpose:

The Downtown Mixed Use Core Overlay (DMUC) district is intended to facilitate the redevelopment of a portion of the former Urban Renewal Area in order to provide for a more walkable, connected, dense, compact, mixed use and diverse urban center. The area should support a diversity of residential, commercial, recreational, educational, civic, hospitality, and entertainment activities, and create opportunities to better connect the street grid for enhanced mobility for automobiles, pedestrians, and bicyclists in order to sustain and advance the economic vitality Burlington's downtown urban core.

This overlay allows larger scale development than is typically found in the underlying district, and development with larger and taller buildings. Development should be designed to support the diverse mixed-uses, activate and enrich the street and sidewalk for pedestrian activity, and encourage mobility throughout the district and adjacent districts for pedestrians and bicyclists with reduced reliance on automobiles.

(b) Areas Covered:

The Downtown Mixed Use Core Overlay (DMUC) district includes those portions of the Mixed Use Downtown (D) District as delineated on Map 4.5.8-1.



Map 4.5.8-1: Downtown Mixed Use Core Overlay (DMUC) district

(c) District Specific Regulations: Downtown Mixed Use Core Overlay (DMUC) district;**1. Dimensional Standards:**

The maximum Building height and mass shall be as prescribed in Table 4.5.8-1 below. Building height and mass in excess of 65-feet and 5.5 FAR shall be allowed by-right and without the necessity of the DRB granting of Development Bonuses/Additional Allowances pursuant to Sec 4.4.1 (d)7.

The Dimensional Standards within the DMUC Overlay District shall be as follows:

<u>Table 4.5.8-1 Downtown Mixed Use Core Overlay (DMUC) District Dimensional Standards</u>	
<u>Building Height</u>	<u>3 stories min.</u> <u>14 stories not to exceed 160-ft max</u>
<u>FAR</u>	<u>9.5 FAR total max per lot</u>
<u>Floorplate:</u>	
<u>Floors 1-5</u>	<u>100% of lot max.</u>
<u>Floors 6-8</u>	<u>80% of lot max.</u>
<u>Floors 9-12</u>	<u>55% of lot max.</u>
<u>Floors 13+</u>	<u>15,000 sf max per individual floorplate with individual towers separated by a minimum of 60-ft measured orthogonally.</u>
<u>The floorplate of any floor may not be larger than the floor below</u>	
<u>Pervious Area¹</u>	<u>10% min</u>
<u>Setbacks:</u>	
<u>- Front</u>	<u>0-ft min, 10-ft max. In no event shall a Building be closer than 12' from the curb.</u>
<u>- Side/Rear</u>	<u>0-ft min, 12-ft max.</u>
<u>Occupied Build-to Zone²</u>	<u>100%</u>
<u>Ground Floor Height (floor to floor)</u>	<u>14-ft min</u>
<u>Arcades³</u>	<u>10-ft clear depth min</u> <u>14-ft clear height min</u>

¹ Pervious Area is the area of a lot covered by surfaces or materials that allow for the movement or passage of water into soils below. Pervious areas include, but are not limited to, areas of a lot covered by soil/mulch, vegetative matter, permeable pavers/pavement, bio-retention areas, or other materials that allow for the infiltration of at least the first inch (1") of rainfall. For these purposes, green roofs that capture and attenuate at least the first inch (1") of rainfall are also considered pervious area.

² Occupied Build-to Zone is the proportion of the linear distance between the maximum and minimum front setback along a front property line that must be occupied by a Building façade. In lieu of a Building façade, a streetscreen between 3.5 and 8 feet in height or active public use or activity (such as outdoor cafes) occupying no more than the lesser of 20 feet or 20% of the Build-to Zone may be included.

³ An Arcade is where only the ground floor level of the Building facade is set back from the front property line. The Building facade for the upper floors is at or near the front property line within the Build-to Zone, and is supported by a colonnade with habitable space above.

2. Urban Design Standards:

The following urban design standards shall apply to all Buildings in the DMUC Overlay, and the DRB shall make a final determination regarding strict compliance with these standards except as provided for in E below. These standards and requirements shall take precedence without limitation over any duplicative or conflicting provisions of Article 6, and compliance with Article 6 shall be presumed where a Building is in compliance with these design standards as determined by the DRB.

A. Overall Design: Proposed Buildings shall present an architecturally significant design as follows:

- i. Step backs, horizontal and vertical variation, selection of materials and other architectural design techniques are used to reinforce the street wall, create transitions from adjacent buildings of a smaller mass and height, and reduce the perceived height and mass of the upper stories from the street level;
- ii. Proposed Buildings provide visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing or other architectural design techniques;
- iii. Upper story proportions of Buildings emphasize vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline, reinforce opportunities for establishing points of reference for visual orientation, and retain opportunities for a view of the sky between individual Building elements.

B. Façade Articulation: All primary and secondary street-facing Building facades shall be articulated as follows:

- i. Building facades shall incorporate surface relief through the use of elements such as bay windows, cladding materials, columns, corner boards, cornices, door surrounds, moldings, piers, pilasters, sills, belt courses, sign bands, windows, balconies and/or other equivalent architectural features at least three (3) of which must either recess or project from the average plane of the facade by at least four (4) inches.
- ii. Buildings with facades between seventy-five (75) feet and one hundred and fifty (150) feet in width shall include vertical changes through the horizontal plane of the Façade by dividing the facade into a series of architectural and/or structural bays between six (6) feet and sixty-five (65) feet in width involving up to a minimum of 50% of the height of the façade.
- iii. Buildings with facades greater than one hundred and fifty (150) feet in width must include a more substantial change in the horizontal plane of the façade where for every one hundred and fifty (150) feet in facade width, one (1) or more architectural bay as required above must either recess or project by at least four (4) feet involving the full height of the façade from the average plane of the street wall portion of the facade. Such bays shall occur no closer than fifty (50) feet from the Building's corner.

- iv. Required Building Height Setbacks pursuant to Sec 4.4.1 (d) 4 shall not be applicable. Instead, upper stories of any primary and secondary street-facing Building facade exceeding six (6) stories in height shall be setback as follows:
- a. An upper story setback at least ten (10) feet from the primary plane of the façade below shall occur within the first 60-ft of Building height at either the 3rd, 4th, or 5th story in order to provide a change in the vertical plane of the façade. Such a change shall involve the full width of the Building façade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.
 - b. For Buildings exceeding ten (10) stories in height a second upper story setback at least ten (10) feet from the primary plane of the façade below shall occur at either the 10th, 11th, or 12th story in order to provide another change in the vertical plane of the façade. Such a change shall involve the full width of the Building façade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.
 - c. Setbacks must be visually set off from the stories below by a balustrade, parapet, cornice and/or similar architectural feature, and are encouraged to be activated as an outdoor amenity space for Building occupants.
 - d. The upper stories beyond a setback may be visually differentiated from the stories below by a change in color, materials and/or pattern of fenestration in order to reduce the actual or perceived massing of the Building overall.
- v. Where visible, the raised foundation or basement of a Building shall not exceed 4-ft as measured from the exterior finished grade to the finished floor of the Story above, and must be visually differentiated from the stories above by a horizontal expression line and change in color, material, and/or pattern of fenestration;
- vi. The lower one to five stories of a Building must be visually differentiated from the stories above by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the facade; and,
- vii. The top one to five stories of a Building must be visually differentiated from the stories below by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the façade
- viii. The top of a Building must have a cornice, parapet, pitched or shaped roof form and/or other equivalent architectural feature involving a projection from the average plane of the facade by at least six (6) inches to serve as an expression of the Buildings top.

C. Street Activation: All Buildings shall activate the street as follows:

- i. Buildings shall have one or more principal entrances for pedestrians at street level that are clearly identified as such along the street frontage or at a corner where a corner lot.
- ii. The linear distance along the street frontage between ground floor entries shall not exceed 60-feet, and such doors must be open and operable by residential occupants at all times and non-residential occupants and customers during business hours.
- iii. Building entrances shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, canopies, awnings, transoms, sidelights and/or other design elements appropriate to the architectural style and details of the Building as a whole. Bays including a principal entrance should be expressed vertically, and may have little or no horizontal expression required below any required upper story setback.
- iv. Requirements regarding openings and the transparency of glazing in a **primary** and **secondary** street-facing Building facade shall be as follows:

	<u>Ground Floor</u>	<u>Upper Floors</u>
<u>Rough openings for windows and doors (per floor)</u>	<u>70% min, 80% of which shall be concentrated between 3-10 feet above the adjacent sidewalk</u>	<u>20% min</u>
<u>- Horizontal and vertical distance between rough openings</u>	<u>20' max.</u>	
<u>Transparency:</u> <u>- applicable to 80% of the glazing on each floor.</u>		
<u>- VLT - Visible Light Transmittance¹</u>	<u>60% min</u>	<u>40% min</u>
<u>- VLR - Visible Light Reflectance</u>	<u>15% max</u>	<u>15% max</u>

¹May be reduced to 50 and 30% respectively to meet the requirements of a High Performance Building Energy Code or equivalent program as determined by the DRB.

- v. Street-facing, street-level windows must allow views into a ground story non-residential use for a depth of at least 3 feet for the first 4 feet above the level of the finished sidewalk in order to provide for a window display, and for a depth of at least 8 feet for the next 4 feet above the level of the finished sidewalk in order to provide a view into the interior of the space. Windows cannot be made opaque by window treatments (except operable sunscreen devices within the conditioned space). External security shutters are not permitted.

D. Materials:

The following requirements regarding the selection and use of Building materials is intended to improve the physical quality and durability of buildings, enhance the pedestrian experience, and protect the character of the downtown area.

- i. Primary Materials: Not less than 80 percent of each street-facing Facade shall be constructed of primary materials comprised of high quality, durable, and natural materials. For Facades over 100 square feet, more than one primary material shall be used. Changes between primary materials must occur only at inside corners. The following are considered acceptable primary materials:
- a. Brick and tile masonry;
 - b. Native stone;
 - c. Wood – panels, clapboard or shingles;
 - d. Glass curtain wall; and,
 - e. Cementitious siding;
- ii. Accent Materials: The following accent materials may make up no more than 20% of the surface area on each street-facing façade. Accent materials are limited to:
- a. Pre-cast masonry (for trim and cornice elements only);
 - b. External Insulation Finishing System - EIFS (for upper story trim and cornice elements only);
 - c. Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only);
 - d. Metal (for beams, lintels, trim elements and ornamentation, and exterior architectural metal panels and cladding only);
 - e. Split-faced block (for piers, foundation walls and chimneys only); and,
 - f. Glass block.
- iii. Alternate Materials: Alternate materials, including high quality synthetic materials, may be approved by the administrative officer after seeking input from the Design Advisory Board. New materials must be considered equivalent or better than the materials listed above and must demonstrate successful, high quality local installations. Regionally-available materials are preferred.
- iv. Other:
- a. The use of recycled and/or regionally-sourced materials is strongly encouraged.
 - b. With the exception of natural wood siding or shingles such as cedar or redwood intended to gradually weather with time, all exposed wood and wood-like products (e.g. fiber-cement) shall be painted or stained. Exterior trim shall be indistinguishable from wood when painted.
 - c. Any synthetic siding and finish products shall be smooth-faced with no artificial grain texturing.
- E. Alternative Compliance: Relief from any non-numerical standard above, and relief from any numerical standard with the exception of building height and FAR by no more than 20% of such requirement, may be granted by the Development Review

Board after review and comment by the Design Advisory Board and the administrative officer. In granting such relief, the DRB shall find that:

- i. the relief sought is necessary in order to accommodate unique site and/or Building circumstances or opportunities;
- ii. the relief if granted is the minimum necessary to achieve the desired result;
- iii. the property will otherwise be developed consistent the purpose of this ordinance, the purpose of the underlying Zoning District and this Overlay District, the purpose of the section that the relief is being sought, and all other applicable standards;
- iv. the relief if granted will not impose an undue adverse burden on existing or future development of adjacent properties; and,
- v. the relief if granted will yield a result equal to or better than strict compliance with the standard being relieved.

3. Use

Schools—Post Secondary & Community College shall be allowed as a Permitted Use, and any application requiring Major Impact Review pursuant to Sec. 3.5.2 (b) shall not also be subject to Conditional Use Review unless a use specifically identified in Appendix A—Use Table as a “Conditional Use” or identified as “CU” is also proposed.

4. Parking

- i. All onsite parking shall be provided in one or more of the following:
 - a. an underground parking structure (strongly preferred);
 - b. an above ground parking structure separated from the public street by a liner building a minimum of 20-ft in depth; or,
 - c. a mixed-use building where with parking located underground, setback a minimum of 20-ft behind the façade of building at the ground level, and/or above the ground floor.
- ii. All onsite parking shall participate in any Downtown Parking and Transportation Management District in order to minimize the amount of parking provided and maximize the efficiency of its utilization.
- iii. Vehicular entrances to parking structures shall not exceed 24-ft clear width and 16-ft clear height at the street frontage.
- iv. At least one pedestrian route from all parking structures shall lead directly to a street frontage (i.e., not directly into a Building). When portions of a building containing parking front on more than one street, multiple pedestrian routes to street frontage is strongly encouraged.
- v. Any surface parking not within a parking structure shall be setback a minimum of 5-feet from any side or rear property line.

vi. All structured parking with frontage on any portion of a public street shall be treated as follows:

- a. The required setback between the parking and the public street at the ground level must be occupied by an active use (such as, but not limited to, residential lobby, retail, office, recreational or services). This requirement shall not apply to parking located either entirely below-grade or above the ground second floor where parking may extend out to the building's perimeter.
- b. All floors of a parking structure fronting a public street must be level (not inclined), and any sloped ramps between parking levels must be setback a minimum of 20-ft from the street-facing building façade and shall not be discernible along the perimeter of the parking structure.
- c. Where upper stories of structured parking are located at the perimeter of a building, parked vehicles, vehicle headlights and interior lighting shall be screened from view from the street and adjacent properties.
- d. In addition to the Urban Design Standards required above, facade treatments (materials, fenestration patterns, and architectural detailing) must be continued on stories containing parking in a manner consistent with the overall architectural design of the Building and such that levels of parking are not clearly distinguishable from other uses in a building.

5. Signs

A master sign plan pursuant to Article 7 Part 3 is required for all sites occupied by more than three tenants where all signs must meet the requirements of the master sign plan. The master sign plan must establish standards of consistency as applicable of all signs to be provided on the subject property with regard to:

- Colors;
- Letter/graphics style;
- Location and Sign Type;
- Materials;
- Methods of illumination; and/or
- Maximum dimensions and proportion.

In addition to the flexibility from the requirements of Article 7 provided under Sec. 7.3.4, the following shall also be permitted when incorporated as part of a master sign plan in the DMUC Overlay:

- i. The area of projecting signs, marques, canopies and awnings shall not be deducted from the maximum allowed signage area permitted for signage under Sec 7.2.3.
- ii. Projecting Signs: One projecting sign may be permitted for each ground floor use provided each sign:
 - a. does not exceed 8 square feet in area;

- b. does not project more than 4 feet from the building façade on which it is attached;
- c. has its lowest edge at least eight (8) feet above any pedestrian way;
- d. has its highest edge no more than eighteen (18) feet above any pedestrian way; and,
- e. Any encroachment into the public right-of-way must also be approved by the City Council.
- iii. Marquee Signs: One marquee sign per **primary** street frontage may be permitted provided such sign:
- a. **is associated with the following uses only: Cinema, Conference Center, Convention Center, Performing Arts Center and Recreation Facility-Indoor;**
- b. is located above the principal Building entrance;
- c. projects a minimum of 6 feet from the building façade on which it is attached but in no event more than 10 feet and 3 feet from the curb;
- d. has its lowest edge at least 9’6” above any pedestrian way;
- e. has its highest edge no more the lesser of the floor level of the third story or 35 feet above any pedestrian way;
- f. is no more than 40 feet in width;
- g. may contain an area for manual changeable copy that does not exceed 30 percent of the area of the sign face on which it is located or 32 square feet, whichever is less; and,
- h. Any encroachment into the public right-of-way must also be approved by the City Council.
- iv. Canopies and Awnings: Where provided, awnings and canopies placed on a building facade shall meet the following specifications:
- a. Awnings and canopies shall provide 8’ minimum clear height above the finished grade, and shall project a minimum of 6’ from the building façade to a maximum of 2’ from the curb. 14’ minimum clear height above the finished grade shall be provided above any area used for parking or circulation. Any encroachment into the public right-of-way must also be approved by the City Council.
- b. Awnings and canopies shall be placed, sized, shaped and proportioned to match the associated openings.
- c. Awnings and canopies that span across an entire building façade shall be fixed no higher than the top of **the top of** the first story.
- d. Except as provided below, awnings and canopies shall not be internally illuminated or backlit, however they may contain lighting fixtures intended to illuminate the ground beneath.
- e. Awnings shall have a metal structure covered with non-translucent canvas, synthetic canvas or painted metal, and shall have no soffit or sides. Retractable awnings are encouraged.
- f. Awnings shall be rectangular in elevation and triangular in cross-section with straight edges. The valance of the awning shall be no more than 12” in height.

- g. Canopies shall be constructed of wood and/or metal, and shall be cantilevered or supported from above. The face of the canopy shall be no more than 24" in height.
- h. Signage placed on an awning or canopy shall be limited to the windows and doors on the first (ground) floor, and shall not extend outside the overall length or width.
- i. Signage placed on a canopy shall be limited to the face or may project above and may be backlit.
- j. Signage placed on an awning or canopy shall be limited to:
 - i. 75% of the valance or canopy face and/or 25% of the sloping plane max.
 - ii. The height of lettering shall be limited to: 5" min - 10" max on the valance; 18" max on the sloping plane; or 24" max on or above the canopy.

6. Green Buildings and Stormwater Management

New development and substantial redevelopment in the DMUC Overlay shall be built to the standard of LEED Gold Certification as evidenced by the submission of a completed LEED checklist by a LEED AP at the time of application, and shall use all reasonable efforts to obtain such final certification upon project completion. The submission of a completed LEED checklist by a LEED AP and the 3rd party commissioning of the building envelope and mechanical systems shall be required as evidence of compliance prior to the release of any Final Certificate of Occupancy.

New development and substantial redevelopment in the DMUC Overlay shall capture 100% of the 1-year storm event

Sec. 5.2.6 Building Height Limits

(a) *unchanged*

(b) Exceptions to Height Limits

1. Additions and new construction on parcels created prior to January 1, 2008 that contain a ~~non-conforming~~ existing structure ~~Principal Building~~ exceeding thirty-five (35) feet ~~the maximum permitted Building in height as of January 1, 2008~~ may exceed the maximum permitted Building height of the zoning district ~~thirty-five (35) feet~~ subject to the design review provisions of Art. 3 and 6, but in no event shall exceed the height of the existing non-conforming Principal Building structure.
2. In no case shall the height of any structure exceed the limit permitted by federal and state regulations regarding flight paths of airplanes.
3. ~~Greenhouses, rooftop gardens, terraces, and similar features are exempt from specific height limitations but shall be subject to the design review provisions of Art. 3 and 6.~~

- 450 3. Ornamental and symbolic architectural features of buildings and structures,
451 including towers, spires, cupolas, belfries and domes; greenhouses, garden sheds,
452 gazebos, rooftop gardens, terraces, and similar features; and fully enclosed stair
453 towers, elevator towers and mechanical rooms, where such features are not used for
454 human occupancy or commercial identification, are also exempt from specific
455 height limitations and but shall be subject to the design review provisions of Art. 3
456 and 6. Such features and structures shall be designed and clad in a manner
457 consistent and complementary with the overall architecture of the Building.
- 458 4. Exposed mechanical equipment shall be allowed to encroach beyond the maximum
459 building height by no more than 15-feet provided that portion exceeding the height
460 limit does not exceed 20% of the roof area.
- 461 Exposed mechanical equipment shall be fully screened on all sides to the full height
462 of the equipment, and positioned on the roof to be unseen from view at the street
463 level. Screening may consist of parapets, screens, latticework, louvered panels,
464 and/or other similar methods.
- 465 Where mechanical equipment is incorporated into and hidden within the roof
466 structure, or a mechanical penthouse setback a minimum of 10-ft from the roof
467 edge, no such area limit shall apply and the structure shall be considered pursuant
468 with 4 above.
- 469 5. The footprint of such architectural features shall not exceed ten percent (10%) of
470 the total roof area.
- 471 5. All forms of communications equipment including satellite dish antennae shall not
472 be exempt from height limitations except as provided in Sec 5.4.7 of this Article.
- 473 6. The administrative officer may allow for up to a 10% variation in the maximum
474 building height to account for grade changes across the site. In no event however,
475 shall such additional height enable the creation of an additional story beyond the
476 maximum permitted.

0 – Technical Changes:

Accept the non-controversial technical changes offered by the Planning Commission and Council Ordinance Committee (highlighted in green in complete draft of the amendment).

2 - Dimensional Standards:

2.1 Line 121, restore and relocate Conditional Use Review exemption for Major Impact projects not involving a conditional use (JS)

Add: “Any application requiring Major Impact Review pursuant to Sec. 3.5.2 (b) shall not also be subject to Conditional Use Review unless a use specifically identified in Appendix A – Use Table as a “Conditional Use” or identified as “CU” is also proposed.”

3 – Changes to Table 4.5.8-1:

3.4 Line 123, Table 4.5.8-1: exclude DMUC Overlay from additional FAR and height for Inclusionary Housing (JS)

Add additional footnote to Table 4.5.8-1 standard re: Building Height to read: “Additional development allowances for inclusionary housing projects as provided in Sec. 9.1.12 shall not be applicable in the Downtown Mixed Use Core Overlay District.”

4 – Exceptions to Height Limits:

4.2 Line 464: add to 5.2.6 (B) 4 “Such features and structures shall be designed and clad in a manner consistent and complementary with the overall architecture of the Building.” (JS)

“Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level. Screening may consist of parapets, screens, latticework, louvered panels, and/or other similar methods. Such features and structures shall be designed and clad in a manner consistent and complementary with the overall architecture of the Building.”

4.3 Line 473-6: amend administrative height relief (#6) to allow for up to a 5% variation. (JS)

“The administrative officer may allow for up to a 5 ~~10~~% variation in the maximum building height to account for grade changes across the site. In no event however, shall such additional height enable the creation of an additional story beyond the maximum permitted.”

5 - Urban Design Standards

- 5.1 Line 225-230, clarify treatment of architectural bays with a principal entrance (JS)

Amend to read: “Building entrances shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, canopies, awnings, transoms, sidelights and/or other design elements appropriate to the architectural style and details of the Building as a whole. Bays including a principal entrance may be expressed vertically and continue onto the upper stories. Such bays are not required to include additional horizontal expression beyond what is required for any upper story setbacks.”

6 - Uses:

- 6.1 Line 241: Add language requiring ground floor uses limited to retail, entertainment, and restaurant -no office, no residential. (JS)

Add: vi. In addition to the restriction regarding ground floor residential uses pursuant to Sec. 4.4.1, (d) 1 A, **general** office uses shall also not be permitted on the ground floor of any building in the DMUC Overlay.

- 6.2 Line 435: Add language requiring any building over 105' to include a mix of uses - No less than 25% of leasable/saleable square footage must be commercial and 25% residential. (JS)

Add: 7. Mixed Use Buildings: Any new or substantially rehabilitated building over 105' in total height shall include a mix of uses including no less than 25% of the gross leasable floor area dedicated to non-residential uses and another 25% or more dedicated to residential use.

7 - Parking:

- 7.1 Line 307-311: amend to a minimum of 40' in depth for both liner building and street setback in a mixed use building. (JS)

b. “an above ground parking structure separated from the public street by a liner building a minimum of 20 40-ft in depth; or,”

c. a mixed-use building where with parking located underground, setback a minimum of 40 20-ft behind the façade of building at the ground level, and/or above the ground floor.

- 7.2 Line 321: add incentive for underground parking (SB)

Add: “v. Each parking space provided in an underground parking structure may be counted as 1.75 of the parking spaces as required in Art 8.”

8 - Signs:

- 8.1 Lines 398-9: remove iv. c regarding location of awnings and canopies. (JS)

Remove “iv.c. Awnings and canopies that span across an entire building facade shall be fixed no higher than the top of the first story.”

9 - Green Buildings:

9.1 Line 425: Require LEED Gold certification. (SC & JS)

New development and substantial redevelopment in the DMUC Overlay shall be built to the standard of LEED Gold Certification, or a nationally recognized equivalent as determined by the administrative officer.

i. At the time of application the following shall be required:

- a. the submission of documentation of the planned performance criteria and elements of the project necessary to obtain the required green building certification (e.g. LEED checklist);
- b. documentation that the project has been registered with the applicable green building certification program (e.g. LEED project registration); and,
- i. a written commitment to apply for formal, written review of the project at the earliest milestone where the green building certifying body offers "precertification" or similar (e.g. LEED Design Review).

ii. Prior to the release of any Final Certificate of Occupancy the following shall be required:

- a. the submission of revised as-built performance criteria and project elements necessary to obtain the required green building certification (e.g. LEED checklist);
- b. the results of 3rd party commissioning of the building envelope and mechanical systems documenting compliance of as-built performance; and,
- ~~a-c.~~ a written certification from the project design professional of record that the project has been constructed to comply with the green building requirements of this section.

9.3 Line 433-4, support DPW recommendations regarding stormwater management (JS)

replace with: Stormwater runoff from 100% of all net new and substantially redeveloped impervious area (or an equivalent area of impervious)) must be captured and managed in such a way as to mimic pre-development (meadow in good condition, Hydrologic Soil Group B) runoff (or discharge) ratio for the 1 year, 24 hour design storm subject to review and approval by the DPW Water Resources Div. The feasibility of implementing runoff volume reduction practices must be evaluated in consultation with the DPW Water Resources Division and shall include an evaluation of the engineering feasibility of techniques including, but not limited to runoff reduction through stormwater reuse, green stormwater infrastructure such as green roofs, bioretention, tree planting and sewer separation of roof water for sites currently discharging to the combined sewer system. Storage and detention methods may be used to meet pre-development flow targets. When and where detention systems are the primary mode of stormwater management, "smart" precipitation integrated detention systems must be evaluated and are strongly preferred. On-site stormwater management must be maximized; however, off-site stormwater management may also be used in consultation with DPW Water Resources.

10 – Church Street Height

10.1 Line 77-92: remove all proposed changes to Sec. 4.4.1 B. Church St. Buildings - restore current language. (JS)

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

Andy Montroll, Chair
Bruce Baker, Vice Chair
Yves Bradley
Alex Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member



PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance

ZA-16-11 Enforcement Period of Limitations

ZA-16-12 Rezone Fletcher Place to Residential Medium

ZA-17-01 Off-Site Parking

ZA-17-02 Family Daycare Exceptions & Preschools

ZA-17-03 Withhold Permit

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on the following proposed amendments to the City of Burlington's *Comprehensive Development Ordinance* (CDO). The public hearing will take place on **Tuesday, September 27, 2016** beginning at **6:45pm** in Contois Auditorium, City Hall, 149 Church Street, Burlington, VT.

Pursuant to the requirements of 24 V.S.A. §4444(b):

Statement of purpose: This amendment is proposed to the Burlington CDO as follows:

- **ZA-16-11 Enforcement Period of Limitations:** The purpose of this amendment is to establish "Section 2.7.11 Enforcement Period of Limitations," pursuant to 24 V.S.A. §4454 and this section, pertaining to zoning violations which have been known to the City of Burlington for more than 15 years and where the City has not taken corrective action to address the violation. This ordinance establishes burden of proof, and a process through which properties with use, dimension, structure, function or other violations can seek to be "stabilized." Finally, this amendment removes references to "Bianchi controlled situations" in Part 3: Non-Conformities.
- **ZA-16-12 Rezone Fletcher Place to Residential Medium:** The purpose of this amendment is to rezone residential properties along Fletcher Place from Institutional to Residential Medium in order to promote residential density and uses which are consistent with the existing neighborhood character.
- **ZA-17-01 Off-Site Parking:** The purpose of this amendment is to clarify the existing zoning provisions for off-site parking and to provide for efficient and effective use of parking facilities generally. The amendment establishes additional parameters for what constitutes acceptable off-site parking facilities and also strengthens the provision for off-site parking used to meet required parking. Reference to the design review standards of Article 6 is also inserted.
- **ZA-17-02 Family Daycare Exceptions & Preschools:** The purpose of this amendment is to align the definition of Daycare to be consistent with state regulatory review; to assure exemption from zoning requirements as noted, and to affirmatively distinguish daycare use from home occupations.
- **ZA-17-03 Withhold Permit:** The purpose of this proposed amendment is to create additional incentive to correct outstanding zoning violations and to prompt action to close out expired permits in need of certificates of occupancy. Properties with outstanding

zoning violations or open and expired zoning permits may not receive new zoning permits until those items are addressed.

Geographic areas affected: the proposed amendments are applicable to the following areas in the City of Burlington:

- **ZA-16-11:** This amendment is applicable to all zoning districts within the City of Burlington.
- **ZA-16-12:** This amendment is applicable to 12 residential properties on Fletcher Place; this amendment does not apply to 34 Fletcher Place.
- **ZA-17-01:** This amendment is applicable City-wide, except for single and two-family dwellings.
- **ZA-17-02:** This amendment is applicable to all zoning districts in which daycares and preschools are permitted by right, or through conditional use.
- **ZA-17-03:** This amendment is applicable to all zoning districts within the City of Burlington.

List of section headings affected:

- **ZA-16-11:** Within Article 2, Part 7, this amendment adds “Section 2.7.11 Enforcement Period of Limitations” and rennumbers “Section 2.7.12 Administrative Appeal.” Within Article 5, Part 3, this amendment modifies “Section 5.3.1 Purpose” and strikes “Section 5.3.2 ‘Bianchi controlled uses, structures and lots.’”
- **ZA-16-12:** This amendment applies to “Map 4.3.1-1 Base Zoning Districts.”
- **ZA-17-01:** This amendment modifies “Section. 8.1.12 Limitations, Location, and Use of Facilities,” modifies “Section. 8.1.15 Waivers from Parking Requirements/Parking Management Plans,” and adds a definition in “Section.13.1.2 Definitions.”
- **ZA-17-02:** This amendment adds “Section 3.1.2. (c) 10,” modifies the Family Day Care Home definition in “Section 13. Definitions,” modifies “Section 5.4.1 Small Day Care Center,” and modifies “Appendix A- Use Table.”
- **ZA-17-03:** This amendment adds “Section 2.7.8 Withhold Permit.”

The full text of the *Burlington Comprehensive Development Ordinance* and the proposed amendment is available for review at the Department of Planning and Zoning, City Hall, 149 Church Street, Burlington Monday through Friday 8:00 a.m. to 4:30 p.m. or on the department's website at www.burlingtonvt.gov/pz.

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

(802) 865-7142 (TTY)

www.burlingtonvt.gov/PZ

David E. White, AICP, Director
Scott Gustin, AICP, Principal Planner
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Project Planner/GIS
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Anita Wade, Planning & Zoning Clerk
Elsie Tillotson, Department Secretary



Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-16-11 – Enforcement Period of Limitations

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this amendment is to establish “Section 2.7.11 Enforcement Period of Limitations” pursuant to 24 V.S.A. §4454. This section pertains to zoning violations, which have been known to the City of Burlington for more than 15 years and where the City has not taken corrective action to address the violation. This ordinance establishes burden of proof, and a process through which properties with use, dimension, structure, function or other violations can seek to be “stabilized.” Stabilized status will not be granted to properties with health or safety violations, violations of the City’s “family” definition under Section 4.4.5(d)(5)(C), or parking violations except as limited by 24 V.S.A. §4454. Furthermore, this amendment renumbers “Section 2.7.12 Administrative Appeal,” modifies “Section 5.3.1: Purpose,” and strikes “Section 5.3.2. ‘Bianchi controlled uses, structures and lots.’”

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

The purpose of this amendment is for the City of Burlington to establish procedures for zoning violations which are not subject to enforcement under the standards of the Vermont Supreme Court in the case entitled *Bianchi v Lorentz*, and later codified in 24 V.S.A. Sec 4454. While the primary purpose of the proposed amendment is conformity with Vermont State Statute, it applies to a range of zoning violations and could have an impact on the availability of housing City-wide. “Stabilization” permits housing units, which are considered illegal through the zoning ordinance but which have been known to the City through the records of other City Departments, to continue to operate until or unless they are discontinued or are in violation of City health or safety standards. It is anticipated that a significant number of housing units within the City could be impacted by this amendment; without a process for stabilization. Therefore, a secondary purpose of this proposed ordinance is to preserve the availability of existing housing units within the City.

Compatibility with the proposed future land uses and densities of the municipal development plan:

The purpose of this amendment is conformity with Vermont State Statute. This amendment does not address proposed future land uses and densities per the municipal development plan.

Implementation of specific proposals for planned community facilities:

This amendment does not implement any specific proposals for community facilities.

Section 2.7.11 Enforcement Period of Limitations

Pursuant to 24 V.S.A. §4454 and the terms of this section, the Administrative Officer shall not institute a zoning enforcement action under Section 2.7.7 where the alleged violation first occurred more than 15 years ago, has continued, and the violation was known to the City. This period of limitations pertains to all zoning violations, including but not limited to “use” violations (except those violations identified in subsection (b)(7) and (b)(8) below) so long as the violation has been continuous for 15 years or more, the City has known of the violation for at least 15 years and not taken action to correct it, and the violation is not a matter of health or safety. A zoning violation that meets the requirements of this section will be considered “stabilized.” The use, dimension, structure, function, or other condition that causes the property to be in violation of current zoning regulations will be referred to throughout this section as “the violation.”

(a) Burden of Proof

- (1) The burden is on the property owner to demonstrate the first two elements: that the violation has occurred continuously for 15 years or more and that the violation was known to the City for at least 15 years without corrective action.
- (2) To prove that a violation was known to the City, the property owner must be able to point to written eCity records within the City’s Department of Planning and Zoning, Code Enforcement Office, Inspection Services Division of the Department of Public Works or Assessor’s Office that show that the referenced City departments knew that the condition underlying the violation existed at least 15 years ago and the City has taken no action to correct the violation. If City records in the referenced departments conflict, the Administrative Officer shall determine whether the City knew of the condition based upon the preponderance of the evidence. To be a “City record” for the purposes of this section, the document must have been produced and/or verified by the City. The term “City record” under this section does not include submissions, including but not limited to emails, complaints or other communications, that have not been independently verified by the City. For a document to be “verified” by the City, the City must have reviewed the facts/assertions in the document and made a written finding that the facts/assertions were accurate.
- (3) If the City identifies a health or safety concern with the violation, the burden is on the property owner to demonstrate that the violation does not violate any City health or safety standards.

(b) Determination and Effect

- (1) Property owners may seek a written determination from the Administrative Officer that a property is in a stabilized status if the property owner can meet the above burden. This determination, while not a permit, shall be processed the same as a request for

administrative approval, including but not limited to notice, appeal rights and notice in the land records.

- (2) A stabilized status for a violation, whether use, dimensional or otherwise, is not a pre-existing legal non-conformity (also known as “grandfathered”).
- (3) No change, alteration, or enlargement that would otherwise require a zoning permit shall be permitted for stabilized violations.
- (4) If the violation is discontinued for more than ninety (90) days, it has ended. The violation is no longer considered “stabilized,” and the violation may not be reactivated or re-occur. An extension to this time limit may be granted by the Administrative Officer if sufficient documented evidence is presented to show that there was a continuous good faith effort to maintain the condition underlying the violation, such as repair and maintenance being done to the property that caused a temporary discontinuance of use. If an occurrence or event destroys at least 50% of a stabilized structure, in the judgment of the city’s building inspector, no reconstruction of the stabilized structure shall be permitted, except to become a conforming use, structure, or lot. If the structure is a pre-existing legal non-conformity, the provisions of Article 5, Part 3 apply.
- (5) No violation that has been determined to be stabilized may be used to count towards the requirements for a new zoning permit.
- (6) Nothing in this section shall prevent any action, injunction, or other enforcement proceeding by the city under any other authority it may have, including, but not limited to its authority under 24 V.S.A. §4470(b) pertaining to DRB and court decisions and/or Title 18 of the Vermont Statutes Annotated (abatement or removal of public health risks or hazards). If a property does not comply with any related health and safety requirement, it may not claim any stabilized status and shall be required to come into full conformance.
- (7) Enforcement of an occupancy violation for occupying a dwelling unit in a residential district inconsistent with the “family” definition under Section 4.4.5(d)(5)(C) is exempt from this period of limitations and, therefore, may not be stabilized. Unless the inconsistent occupancy is deemed to be a pre-existing legal nonconformity, such a violation may be enforced at any time.
- (8) Except as limited by 24 V.S.A. §4454, as interpreted by the courts, enforcement of a parking violation is exempt from this period of limitations and may not be stabilized. Unless the parking is deemed to be a pre-existing legal nonconformity, such a violation may be enforced at any time.

Section 2.7.14-2 Administrative Appeal

As written.

PART 3: NON-CONFORMITIES

Sec. 5.3.1 Purpose

These regulations are enacted for the purpose of governing all aspects of nonconformity, regardless of whether it is a use, a structure or a lot. As defined under Article 13, nonconformity means a use, structure or lot that was legal at the time it was constructed or laid out, but would not be lawful under the requirements of this ordinance as currently in effect. ~~This Part will also address “Bianchi controlled Situations”, in which a zoning violation may not subject to enforcement under the standards set forth by the Vermont Supreme Court in the case entitled *Bianchi v. Lorentz* and later codified in 24 VSA Sec. 4454.~~

~~In combination,~~†These standards are intended to establish the property rights of individuals and organizations in a manner consistent with the overall goals of zoning and to promote the City's general health, safety, and welfare.

Sec. 5.3.2 ~~“Bianchi” controlled uses, structures, and lots.~~

~~Although not subject to enforcement action pursuant to Article 2, uses, structures, and lots which are deemed to be controlled by the *Bianchi* decision, and the subsequent enactment of 24 VSA Sec. 4454, shall be considered violations that are not considered legal to any extent and shall in no event be granted the consideration or allowances of nonconforming structures, uses, and lots. Thus, no change, alteration, enlargement, and reestablishment after discontinuance for more than sixty (60) days or reconstruction after an occurrence or event which destroys at least 50% of the structure in the judgment of the city’s building inspector shall be permitted, except to a conforming use, structure, or lot.~~

Department of Planning and Zoning

149 Church Street

Burlington, VT 05401

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

(802) 865-7142 (TTY)

www.burlingtonvt.gov/PZ

David E. White, AICP, Director
Scott Gustin, AICP, Principal Planner
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Project Planner/GIS
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Anita Wade, Planning & Zoning Clerk
Elsie Tillotson, Department Secretary



Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-16-12 – Rezone Fletcher Place to Residential Medium

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this proposed amendment to “Map 4.3.1-1 Base Zoning Districts” is to rezone properties along Fletcher Place from Institutional to Residential - Medium Density. This change is intended to promote residential density and uses which are consistent with the existing built environment and neighborhood character on Fletcher Place.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

The proposed rezoning of Fletcher Place conforms with the Housing Plan in the City’s Municipal Development Plan, specifically to ensure that housing needs are being met through rehabilitation, conservation and infill development in a way that blends with the City’s built and natural surroundings. The development standards contained within the Residential - Medium Density zoning district will continue to allow housing density that is consistent with densities currently permitted in the Institutional Zone; however, other uses permitted within this district are more consistent with the existing built environment of a residential area.

Compatibility with the proposed future land uses and densities of the municipal development plan:

The proposed rezoning of Fletcher Place furthers the Municipal Development Plan’s Land Use policy to “conserve and strengthen residential neighborhoods” by applying a zoning designation that is consistent with the existing built environment of the street.

Implementation of specific proposals for planned community facilities:

This amendment does not implement any specific proposals for community facilities.

Zoning Amendment ZA-12-16

Rezone Fletcher Place to Residential Medium

Burlington, Vermont

Legend

 **Parcels Changing from Institutional (I) to Residential Medium Density (RM)**

Map Date: June 10, 2016

RL

NAC-R

I

RM

RL

I

RL

I

I

University of Vermont
Medical Center

University of Vermont
Central Campus

400 200 0 400 Feet

Burlington GIS



Planning Commission
September 27, 2016
Page 53 of 73

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

(802) 865-7142 (TTY)

www.burlingtonvt.gov/PZ

David E. White, AICP, Director
Scott Gustin, AICP, Principal Planner
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Project Planner/GIS
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Anita Wade, Planning & Zoning Clerk
Elsie Tillotson, Department Secretary



Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-17-01 – Off-Site Parking

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this amendment is to clarify the existing zoning provisions for off-site parking and to provide for efficient and effective use of parking facilities generally. The amendment establishes additional parameters for what constitutes acceptable off-site parking facilities and also strengthens provision for off-site parking used for required parking. Reference to the design review standards of Article 6 is also inserted.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This amendment conforms with and advances the the goals and policies contained in the City's municipal development plan, including the availability of safe and affordable housing by offering greater flexibility and more efficient use of parking and parking management necessary to support new development.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This amendment does not have an impact on the goals and policies for future land use and density contained in the City's Municipal Development Plan, and instead helps to ensure they can be realized as intended.

Implementation of specific proposals for planned community facilities:

This amendment does not specifically implement plans for any new community facilities.

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Planning Commission
FROM: Scott Gustin
DATE: April 8, 2016
RE: Off-Site Parking Amendment to CDO

The purpose of this amendment is to clarify the existing zoning provisions for off-site parking and to provide for efficient and effective use of parking facilities generally. The amendment establishes additional parameters for what constitutes acceptable off-site parking facilities and also strengthens provision for off-site parking used for required parking. Reference to the design review standards of Article 6 is also inserted.

Following an initial approval by the Planning Commission Ordinance Committee, the amendment was further revised to include provision that directly addresses shared use of parking facilities after-hours and during weekends. City policy encourages shared use of existing parking areas, including those on private property (i.e. such as office use during the day, but public parking during nights and weekends). Present zoning standards arguably preclude doing so. This amendment has been expanded to include additional provision for parking management plans to enable after-hours shared use of parking facilities.

On April 7, 2016, the Ordinance Committee voted to send this amendment along to the full Planning Commission for consideration. Their suggested revisions are included in the language below.

Proposed CDO language is below. New language is underlined red, and deleted language is ~~crossed out~~.

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-Site parking facilities:

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land. The off-site parking area shall be within the same zone as the use it serves or is in a zone that allows parking lots or parking garages as primary uses. Parking that serves any use located outside a residential zone shall not be located within a residential zone. Off-site parking spaces shall be subject to the site plan design standards of Article 6: Part 2. The maximum parking limitations of Section 8.1.9 apply. Off-site parking facilities shall be as follows:

1. Neighborhood Parking District: No more than 50% of the total required parking shall be provided at a distance greater than 600 feet from the use it is intended to serve. For residential uses, a minimum of 1 space per unit shall be provided on-site.
2. Downtown and Shared use Parking Districts: Any off-site parking shall be provided within 1,000 feet of the use it is intended to serve unless such parking is provided as part of a Parking Management Plan pursuant to Sec. 8.1.15 approved by the DRB.

3. The distance from the off-site parking to the associated use shall be measured in walking distance along a sidewalk or other pedestrian path separated from street traffic from the nearest parking space to the principle pedestrian entrance to the building housing the use. Such off-site parking shall not reduce the required parking for any other use utilizing the property on which it is located unless such shared use is approved by the development review board. The right to use the off-site parking to meet the minimum parking requirements of Sec. 8.1.8 must be guaranteed for the duration of the use as evidenced by a deed or ~~lease, easement, or similar written instrument~~ as may be approved by the City Attorney and recorded in the Burlington land records. Use of off-site parking for parking spaces in excess of the minimum parking requirements of Sec. 8.1.8 may be secured by lease or similar written instrument.

(b) Downtown Street Level Setback:

As written.

(c) Front Yard Parking Restricted:

As written.

(d) Shared Parking in Neighborhood Parking Districts:

As written.

(e) Single Story Structures in Shared Use Districts:

As written.

(f) Joint Use of Facilities:

As written.

(g) Availability of Facilities:

As written.

(h) Compact Car Parking:

As written.

Sec. 8.1.15 Waivers from Parking Requirements/ Parking Management Plans

(a) Parking Waivers

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Any waiver granted shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building pursuant to Sec. 5.4.8 and ground floor retail uses in any Mixed Use district which may be waived by as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Sec. 3.2.7 (a)7.

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of Sec. 8.1.8 are not applicable or appropriate for the proposed development, and proposes an alternative that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

- (a) A calculation of the parking spaces required pursuant to Table 8.1.8-1.
- (b) A narrative that outlines how the proposed parking management plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.
- (c) An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:
 - 1. Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;
 - 2. Anticipated parking demand by time of day and/or demand by use;
 - 3. Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;
 - 4. Availability and frequency of public transit service within a distance of 800-feet.
 - 5. A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,
 - 6. Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.
- (d) Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:
 - 1. A telecommuting program;
 - 2. Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;
 - 3. Implementation of a car-share program;
 - 4. Development or use of a system using offsite parking and/or shuttles; and,
 - 5. Implementation of public transit subscriptions for employees.

Comment [SG1]: Change (a) to 1, etc.

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

(b) Shared Parking for Off-Site Use

Onsite parking spaces may be made available for use by off-site users subject to review and approval of a Parking Management Plan by the DRB.

The Parking Management Plan must include the following:

- 1. A calculation of the parking spaces required pursuant to Table 8.1.8-1 and a calculation of those parking spaces to be shared for off-site parking use.

2. Information specifying the actual onsite demand for required parking by day, time of day, and by use and also information specifying when and how much parking would be made available to off-site users.
3. A narrative that outlines how the proposed parking management plan will allow for shared use of required parking spaces with off-site users; how it will enable continued availability of required parking spaces pursuant to Table 8.1.8-1 while also affording off-site parking use of those spaces.

The Parking Management Plan must demonstrate to the satisfaction of the DRB that making spaces available to off-site users does not negatively affect their availability for onsite users to park due to either:

1. There being an excess of onsite spaces beyond that necessary to satisfy the requirements of Sec 8.1.8; and/or,
2. The spaces are to be made available during off-peak hours of the onsite and/or required users.

Parking spaces being made available to off-site users may be made available:

- Either with or without a fee;
- For transient use by the general public; and/or,
- By lease, provided the term of any lease does not exceed one (1) year.

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

Sec. 13.1.2 Definitions.

For the purpose of this ordinance certain terms and words are herein defined as follows:

Unless defined to the contrary in Section 4303 of the Vermont Planning and Development Act as amended, or defined otherwise in this section, definitions contained in the building code of the City of Burlington, Sections 8-2 and 13-1 of the Code of Ordinances, as amended, incorporating the currently adopted edition of the American Insurance Association's "National Building Code" and the National Fire Protection Association's "National Fire Code" shall prevail.

A-O, As written.

Park: Any area designated by the City as a park pursuant to Section 22-1 of the Code of Ordinances of the City of Burlington, Vermont.

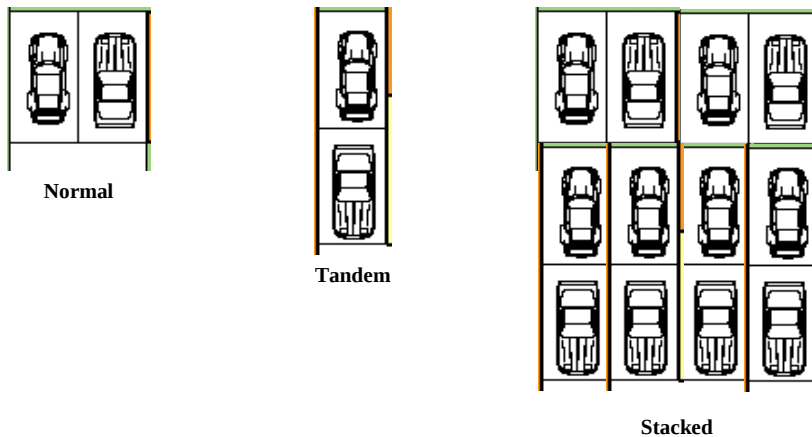
Parking Garage/Structure: A structure containing parking facilities, below or above grade.

Parking, Off-site: One or more parking spaces on one parcel of land providing parking spaces for a use on another parcel of land.

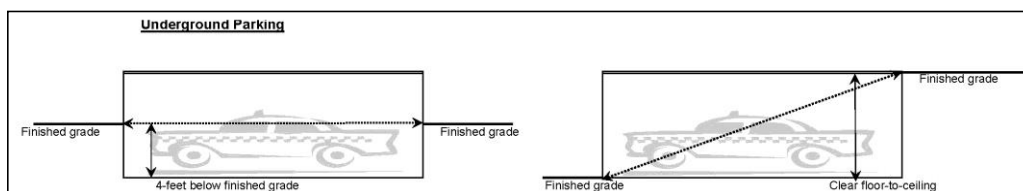
Parking, Surface/Lot: Parking facilities that are at grade and uncovered or not within a structure.

Parking, Stacked: The parking of more than two (2) cars in a parallel line, one behind the other.

Parking, Tandem: The parking of up to two (2) cars, one behind the other.



Parking, Underground: Parking spaces within a covered structure where either: fifty percent of the volume of the parking space is below the finished surface of the ground adjacent to the exterior walls of the building; or, the floor of the parking space is four (4) feet below the finished surface of the ground adjacent to the exterior walls of the building, whichever is greater.



Continued as written.

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

(802) 865-7142 (TTY)

www.burlingtonvt.gov/PZ

David E. White, AICP, Director
Scott Gustin, AICP, Principal Planner
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Project Planner/GIS
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Anita Wade, Planning & Zoning Clerk
Elsie Tillotson, Department Secretary



Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-17-02 – Family Daycare Exemptions & Preschools

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this proposed amendment is to align the definition of Daycare to be consistent with state regulatory review; to assure exemption from zoning requirements as noted, and to affirmatively distinguish daycare use from home occupations.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This amendment conforms with and advances the the goals and policies contained in the City's municipal development plan. In particular this amendment helps to ensure the provision of small family daycare options within the city.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This amendment does not have an impact on the goals and policies for future land use and density contained in the City's Municipal Development Plan, and helps to ensure the provision of small family daycare options within the city to support the city's families and economy.

Implementation of specific proposals for planned community facilities:

This amendment does not specifically implement plans for any new community facilities.

Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/pz
Phone: (802) 865-7188
Fax: (802) 865-7195

David White, AICP, Director
Megan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



TO: Planning Commission
FROM: Mary O'Neil
DATE: August 3, 2016
RE: Daycare amendments, adding preschool use in Appendix A

This memorandum will introduce two amendments: The addition of “preschool” to Appendix A (Use Table), and align the definition of Daycare to be consistent with state regulatory review, authorize exemption from zoning requirements as noted, and to affirmatively distinguish daycare use from home occupations.

Daycares

On April 7, 2016, the Planning Commission Ordinance Committee voted to move the Daycare amendment to the full Planning Commission for consideration. Revisions as recommended by the Ordinance Committee are included in the language below.

The recommended text is as follows. New language is underlined red and deleted language is ~~crossed out~~.

Article 3: Applications, Permits and Project Reviews

Section 3.1.2 Zoning Permit Requires

(a) – (b) as written

(c) Exemptions:

The following shall be exempt from the requirements of this Ordinance and shall not be required to obtain a zoning permit:

1-9 as written

10. Family daycare home, serving up to six (6) pre-school plus four (4) school-aged children in a single detached dwelling; or a Family daycare center providing care for children of not more than two families other than that of the person providing the care.

Article 13: Definitions

Day Care Center: (See Article 5 for specific provisions.)

(a) Family Day Care Home:

- i. A ~~state-registered or licensed~~ daycare facility serving up to six (6) pre-school plus four (4) school-aged children. OR
- ii. A daycare facility providing care for children of not more than two families other than that of the person providing the care.

A family day care shall be considered by right to constitute a permitted accessory use to single detached dwellings, and shall therefore be exempt from zoning permit requirements. See Section 3.1.2 (c).
Family Day Care Centers shall not be considered a home occupation.

(b) and (c) as written.

Preschools

Article 13 has a definition of “preschool”, but the distinct use is not included within **Appendix A, Use Table**. Therefore, two categories are proposed to be added under Schools:

Preschool Small and **Preschool Large**. Table information is duplicative of daycare use for comparable size.

For consistency, Footnote 8 has been modified to include preschools.

From **Article 13, Definitions**:

School: The academic space and accessory uses for the teaching of children or adults.

- (a) **Primary:** elementary school, inclusive of grades K-8.
- (b) **Secondary:** a high school and/or vocational center for attendance after elementary/primary school, granting a high school diploma for levels of education inclusive of grades 9-12.
- (c) **Post-Secondary:** after high school, including colleges, community colleges, universities, or continuing education.
- (d) **Trade or Professional:** a school that offers instruction in skilled trades.
- (e) **Preschool:** a school providing educational services for children from 3 years of age until their admission to first grade and that may include kindergarten.

See attached Appendix A with suggested additions in red underlined.

The reference in Appendix A to **Section 5.4.1 (Small Day Care Center)** requires revision to incorporate Small Preschools as well.

Sec. 5.4.1 Small Day Care Center and Small Preschools

In addition to the provisions of **Art 3, Part 5** for conditional uses, and applicable site and design review standards in **Art 6**, the following additional regulations shall be applicable to an application involving a small day care center or small preschool:

- (a) No playground equipment shall be located within the front yard;
- (b) No more than twenty (20) full-time children are to be served;
- (c) The site plan review shall insure adequate and safe drop-off and pickup space is provided and that traffic problems are not created;
- (d) Any additions, signage, or site improvements shall be residential in character;
- (e) The facility shall be licensed or registered by the State of Vermont if required;

- (f) No more than one residential unit may be converted for the creation of a single small day care center or small preschool. Such a conversion shall be exempt from the requirements of Article 9, Part 2- Housing Replacement; and,
- (g) The neighborhood is not overburdened with other day care centers or small preschools.

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
Recycling Center – Large ¹⁰ (above 2,000 sf)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Recycling Center - Small ¹⁰ (2,000 sf or less)	N	N	N	N	CU	N	N	N	N	N	N	N	N	CU	CU	CU	CU	Y
Research Lab	N	CU	N	N	CU	N	N	N	CU	CU	(See Sec.4.4.1(d) 2)	CU	CU	N	CU	CU	CU	Y
Restaurant	N	N	N	N	N	N ²²	N ²²	CU ^{8, 13}	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y ¹³	Y	Y	N	N
Restaurant – Take Out	N	N	N	N	CU ¹³	N ²²	N ²²	N	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y ¹³	Y	Y	N	Y ¹³
Salon/Spa	N	N	N	N	CU	N ²²	N ²²	N	Y	Y	N	Y	Y	Y	Y	Y	N	N
School - Post-Secondary & Community College	N	N	Y	N	CU	N	CU	CU	CU	N	N	CU	CU	CU	CU	CU	N	N
<u>School - Preschool Large (over 20 children)</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>CU</u>	<u>CU¹³</u>	<u>CU¹³</u>	<u>CU¹³</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>CU¹⁷</u>
<u>School - Preschool Small (7- 20 children) (See Section 5.4.1)</u>	<u>N</u>	<u>CU⁸</u>	<u>CU⁸</u>	<u>CU⁸</u>	<u>CU</u>	<u>CU¹³</u>	<u>CU¹³</u>	<u>CU¹³</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>CU</u>	<u>CU¹⁷</u>
School - Primary	N	N	N	N	CU	CU	CU	CU	CU	N	N	CU	N	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	CU	N	N	CU	N	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	Y	N	N	CU	CU	CU	N	N	N	CU
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N ²²	N ²²	CU ⁸	Y	Y	N	Y	Y	Y	Y	Y	N	N
Warehouse	N	CU	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	Y ¹⁵	Y	Y
Warehouse, Retail ⁹	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU ¹⁵	CU ¹⁵	CU	CU
Warehouse, Self-Storage ⁹	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	CU
Wholesale Sales ⁹	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁵	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	Y	N	N	Y	Y	Y	CU	CU	N	N

1. Residential uses are not permitted except only as an accessory use to an agricultural use.

Appendix A-Use Table – All Zoning Districts

2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Small daycares and preschools in the RCO zones shall be conditional use and shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use.
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.
28. Grocery Stores up to but not to exceed 30,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	Zoning District
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
D	Downtown
DW	Downtown Waterfront
DT	Downtown Transition
BST	Battery Street Transition
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

Telephone: (802) 865-7188

(802) 865-7195 (FAX)

(802) 865-7142 (TTY)

www.burlingtonvt.gov/PZ

David E. White, AICP, Director
Scott Gustin, AICP, Principal Planner
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Project Planner/GIS
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Anita Wade, Planning & Zoning Clerk
Elsie Tillotson, Department Secretary



Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-17-03 – Withhold Permit

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this proposed amendment is to create additional incentive to correct outstanding zoning violations and to prompt action to close out expired zoning permits in need of certificates of occupancy. Properties with outstanding zoning violations or open and expired zoning permits may not receive new zoning permits until those items are addressed.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This amendment conforms with and advances the the goals and policies contained in the City's municipal development plan. In particular this amendment helps to ensure that all development comes into compliance with the requirements of the City's regulations which will improve community character and quality especially in residential areas.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This amendment is administrative in nature does not have an impact on the goals and policies for future land use and density contained in the City's Municipal Development Plan.

Implementation of specific proposals for planned community facilities:

This amendment is administrative in nature and does not specifically implement plans for any new community facilities.

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Planning Commission
FROM: Scott Gustin
DATE: August 9, 2016
RE: Article 2: Part 7; new Sec. 2.7.8, *Withhold Permit*

At its June 2, 2016 meeting, the Ordinance Committee voted to move this proposed language along to the full Planning Commission for its consideration. The purpose of this proposed amendment is to create additional incentive to correct outstanding zoning violations and to prompt action to close out expired zoning permits in need of certificates of occupancy. The mechanics are simple: Properties with outstanding zoning violations or open and expired zoning permits may not receive new zoning permits until those items are addressed.

This proposal originated in 2014. Some initial amendment language was put together in June 2014 following an initial discussion with the Planning Commission. No further discussion is evident in the record. The Ordinance Committee revisited this proposal in May 2016 wherein the extent of the amendment was agreed upon. At their June 2016 meeting, there was some hesitancy within the Committee as to the need for this measure but, as noted above, voted to move it along for discussion among the full Commission.

Proposed CDO Language:

PART 7. ENFORCEMENT

Sec.'s 2.7.1 – 2.7.7

As written.

Sec. 2.7.8 Withhold Permit

The administrative officer is authorized to deny all zoning permits or certificates of occupancy for any property with an uncorrected zoning violation (i.e. notice of zoning violation and/or municipal complaint ticket has been issued and is not under appeal). The administrative officer is also authorized to deny all zoning permits for any property with an expired zoning permit without a final certificate of occupancy.

Instead of withholding or denying a zoning permit, the administrative officer may grant such permit subject to the condition that the uncorrected zoning violation is corrected or the expired zoning permit is closed out with a final certificate of occupancy. Such action(s) shall take place before the issuance of a final certificate of occupancy on the new permit.

Sec.'s 2.7.9 – 2.7.12

As written, but renumbered to adjust for new Sec. 2.7.8 above.

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

*Andy Montroll, Chair
Bruce Baker, Vice-Chair
Alexander Friend
Emily Lee
Yves Bradley
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member*



Burlington Planning Commission Minutes Tuesday, September 13, 2016 - 6:30-8:30 P.M. Conference Room 12, City Hall

Present: A Montroll, H Roen, A Friend, E Lee
Absent: J Wallace-Brodeur, B Baker, Y Bradley
Staff: D White, M Tuttle, S Gustin, K Sturtevant, E Tillotson

I. Agenda

A Montroll: Meeting adjourned at 7:25pm. Appreciation to public and Commissioners for waiting for quorum. Agenda amended to include item II followed by item VI; will defer item V and all others time permitting.

II. Public Forum

Rodney Myers: Sent a letter concerning his property at the corner of Elmwood and North Street. It has been listed for sale, and despite having three viable buyers interested in the property current residential medium density (RM) zoning prevents it from being reused for a convenience store or additional housing units. Property is on the borderline of neighborhood mixed use (NMU) zone, and requests rezoning to this district.

A Montroll: Does the Commission want to consider this item?

M Tuttle: Staff feels that the request is reasonable to consider.

A Montroll: The Commission does not take a position on the request at this time, but will ask staff to propose an amendment to review at a future meeting.

Chandra Pokrel: Born in Bhutan and has lived in the United States since 2009 with four children. Intends to buy the property, open a store and run apartments. The change of zoning to NMU would allow to occupy the property as soon as possible.

III. Public Hearing ZA-17-04: NAC – Cambrian Rise

D White: Shows map, locations, proposed to change from Waterfront Medium Density Residential (WRM) to Neighborhood Activity Center- Cambrian Rise (NAC-CR). Part of long conversation about property. Area along escarpment has been purchased by City for public access to beach and North Avenue. Rezone would allow for more neighborhood-oriented uses, concentrates development closer to North Avenue. Taller buildings near lake don't make sense, would change with rezoning. Staff has recommended some additional modifications to address Commission concerns from last meeting, and some ordinance sections that were left out in first draft.

The chair opened the public hearing at 7:36pm.

Charles Simpson: [Comment from public forum was asked to be included in record for hearing.] Concerned about only two lanes to the Cambrian Rise development for fire truck access. The development at Cambrian Rise will have senior housing, which are more frequent users of emergency services, and a large spectrum of

Tuesday, September 13, 2016

added activity including offices, clients, retail, housing. Urges an Act 250 study focused on traffic before approving zoning.

Andrew Simon: Weary of asking city boards to vote "no." This is pure profit driven development with many conflicts of interest. Public engagement just window dressing. Adding 1200 additional cars, lock the city into subsequent demise of Burlington College. Report from botanical consultant report about rare plants expunged. Please do not compound this error by approving this project

Joanne Hunt: Echo A Simon. Nothing new to say, just discouraged. Development in city just continues in direction of getting bigger. Discouraging that development was goal all along when Burlington College bought land.

Charles Simpson: Shocked that zoning presumes entire development of the plot is shifted to the center, city pays \$2M for park to be site drainage. Fiction that developer is providing open space, when taxpayers are. What is rationale for maximum buildout?

Jesse Bridges: Proposed change doesn't upzone. Lot coverage, density, inclusionary zoning not changing. In fact, what is proposed is below what is currently allowed. Conserved a considerable portion of property. 60 foot buildings currently allowed.

Michael Monte: State of Vermont study on homelessness underway; preliminary report shows just not enough homes. CHT working in full spectrum of subsidized, low income, housing for disabled, buying motels to convert to temporary housing, provide support services. Will be devastating if zoning not approved. Prepared to get funding for up to 80 affordable units; Cathedral Square doing the same. Timing of funding is critical, may lose some of it, but hope to move forward in the spring. This is not a theoretical problem; hundreds of people are showing up needing housing, and this is a significant opportunity. Without this zoning change, we could see a second Appletree Point on this land. Took 3.5 years to open Bright St. Co-op; now it will house a wide variety of people. Now talking to Eric Farrell about 40 units of for-sale housing. Project will be most diverse in its income base and units available.

E Lee: What is general mix of housing in the project?

E Farrell: Zoning requires 25% to be inclusionary. Present plan is about 700 units, 170 will be for sale, 25% of those will be for 80% of AMI through CHT, 350 rental units of all shapes and sizes in market-rate condo buildings, up to 160 units will be split between affordable and senior housing. Will serve broad cross section of population, close to downtown, bike path is an amenity. Current zoning lot coverage is 72%; if you consider the lot including the land the City purchased, coverage is around 36%, without it coverage is around 58%. Planning to put two-thirds of parking underground

A Montroll: Regarding comment about emergency services, how will that issue get reviewed?

D White: Project is above the threshold for Major Impact, will be reviewed through that process. Memo from staff discusses three issues: how to measure height in Article 5, including the NAC-CR in Article 9, and some changes to Appendix A- Use Table. Intent of amendment is not to allow more development, but rather allow the same amount presently permitted, but to reorient it. Height is measured in two different ways. Frontage along a sidewalk is measured from sidewalk, but because of set-back this project will be measured all the way around a building. Due to sloping of site, need to find a building height or a way to measure that does not drive down the allowable building heights in this district. Staff proposal is to amend Article 5 to allow for an additional story

Tuesday, September 13, 2016

below the ground plane on downward sloping lots, and maintain a 65 ft height limit in the proposed NAC-CR district.

A Montroll: Rationale makes sense, but uncomfortable with changing city-wide, particularly as this concept was not included in the version warned for the public hearing. In the past, the issue of how to measure building height has been big issue. This should be as a separate issue.

E Lee: Agreed. Should be considered separately; disappointed this was proposed without discussing it with the Commission first.

M Tuttle: This was provided by staff at the request from the Commission to find a solution for measuring height.

D White: Going forward, intent is that we only want 65 feet, but present amendment draft creates misperception.

A Montroll: Could this concept for measuring height apply only in this district?

D White: It complicates the ordinance to have height measured in different ways in different districts.

E Lee: Send it forward with 80 foot height realizing that it seems out of place. Leave to Council and Ordinance Committee to correct.

A Montroll: Will that create an unintended consequence of allowing 80 foot buildings at the street?

D White: On a flat portion of site, could go to 80. Another nuance is that inclusionary allows a by-right height and FAR bonus under Article 9, which would allow buildings to go up to 75 feet.

H Roen: Regardless of this project, how does the amendment shift development toward North Avenue?

D White: By creating this mixed use district, allows the height closer to the Avenue and takes it away from WRM district. In addition to height, proposed modifications add reference to the NAC-CR district to Article 9.

A Montroll: This is reasonable.

D White: Other change is to several uses in Appendix A that adds additional permitted and conditional uses for this NAC district.

A Montroll: So, have the version as warned, and three amendments: change measurement of height, add NAC-CR to Article 9, and change to 4 uses in the use table.

E Lee: No problem with uses. Change in measuring height should be just for this zone.

H Roen: Not satisfied with conservation values that have been incorporated in to the project. Know the city worked hard to preserve land and will do a lot of good, but don't believe that it is enough. Must separate project from the zoning. If could make any change, would propose changing the zoning to RCO.

Jesse Bridges: Just to be clear, there is no conservation if we don't execute the development agreement.

E Lee: Is H Roen discussing the rezoning of the land around the new NAC-CR for RCO?

D White: Until development agreement has been completed, that land currently cannot be rezoned because it has potential for development. The intention is to rezone to RCO as soon as the agreement is complete.

A Friend: How do we move this forward keeping in mind the issue of funding, when height is a more contentious issue? Do we hold another hearing?

Tuesday, September 13, 2016

A Montroll: Have already held a hearing, and can make changes following it. Do we move it on without changes, or modify it.

M Tuttle: Staff can incorporate changes based on Commission input and bring back at next meeting.

E Lee: Need to move this forward. Fine with staff modifications to Article 9 and the Use Table. Ok with changing how to measure height, but don't want that to apply city-wide.

E Farrell: The Commission three members short; would rather have full board to decide.

The Commission unanimously approved a motion by E Lee, seconded by A Friend, to have staff incorporate modifications to Article 9 and use table, and provide wording for measuring building height that will not impact the whole city.

A Montroll: Public Hearing closed at 8:33pm. Will review at our next meeting. Look for notice about timing of that meeting; there are already several hearings warned for September 27.

IV. Report of the Chair

No report.

V. Report of the Director

No report.

VI. Proposed CDO Amendment – Craft Beverage Production

Deferred.

VII. Committee Reports

Long Range Planning Committee: H Roen indicated discussion with M Tuttle regarding next draft of Plan. Executive Committee indicated Commission should have more time to discuss. Good idea, but this plan needs to move along.

A Montroll: Discuss at a future meeting.

VIII. Commissioner Items

H Roen: Met with Mark Furnari, who has requested rezoning on Riverside Avenue. Doing a site visit Monday with city engineer and Meagan if a few Commissioners want to join.

E Lee: Can we get an update on the permit reform project, and in particular the consultants who are working on historic building piece?

IX. Minutes & Communications

The Commission unanimously approved a motion by E Lee, seconded by A Friend, to approve the minutes of August 23 and August 25, 2016 with the correction to August 25 to reflect that H Roen was not in attendance.

The Commission unanimously approved a motion by E Lee, seconded by H Roen, to accept the communication from Rodney Myers.

Tuesday, September 13, 2016

X. Executive Session

Deferred.

XI. Adjourn

The Commission unanimously approved a motion by E Lee, seconded by A Friend, to adjourn at 8:41pm.

A Montroll, Chair

DATE: Signed on XX



Elsie Tillotson, Recording Secretary

Notice of Issuance of Wetland Amendment (Time Extension) CUD Number: 2010-125

Please be notified, as per Section 9.4 of the Vermont Wetland Rules that the request for a Wetlands Amendment (Time Extension) received from City of Burlington was approved on 9/8/2016. The approved proposal is for a time extension for the construction of the Champlain Parkway to impact 20,620sf of wetland impacts and 33,585sf of buffer zone impacts. It was found by the Agency of Natural Resources that this conditional use will not result in any undue, adverse effects to the protected functions of the significant wetland located along Englesby Brook on the west side of Pine St. in Burlington, Vermont. Complete copies of the decision can be obtained by writing to the address below, or by clicking on the following link:

<http://dec.vermont.gov/watershed/permits/public-notices/wetlands-public-notices>

Any person with an interest in this matter can appeal this decision pursuant to 10 V.S.A. Section 8504. Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of the decision. The appellant must attach the Notice of Appeal and the appropriate entry fee, payable to the State of Vermont.

The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Court; and must be signed by the appellant or their attorney. In addition, the appeal must give the address or location and description of the property, project or facility with which the appeal is concerned and the name of the applicant or any permits involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

For further information, see the Vermont Rules for Environmental Court Proceedings, available online at www.vermontjudiciary.org. The address for the Environmental Court is 32 Cherry St. 2nd Floor Suite 303 Burlington, VT 05401 (Tel. # 802-828-1660).

**Laura Lapierre
Wetland Program Manager
Watershed Management Division
Department of Environmental Conservation
One National Life Drive
Main Building, 2nd Floor
Montpelier, Vermont 05620-3522**

cc: Distribution List

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

*Andy Montroll, Chair
Bruce Baker, Vice-Chair
Alexander Friend
Emily Lee
Yves Bradley
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member*



Burlington Planning Commission Minutes Tuesday, September 27, 2016 - 6:00 P.M. Contois Auditorium, City Hall

Present: B Baker, Y Bradley, A Friend, E Lee, A Montroll, H Roen, J Wallace-Brodeur

Absent:

Staff: D White, M Tuttle, S Gustin, K Sturtevant

I. Agenda

Called to order at 6:05pm. No change to agenda.

II. Public Forum

I Avilix: Public ask questions often without answer. Request to transcribe notes during public forum so public can review and respond. Will ask of City Council, too. Especially relevant to some questions that been asked of Council regarding the Planning Commission.

R Herendeen: Sent diagram to Commission regarding D White documents that are misleading. If look at stepbacks from the angle shown in diagram, must modify diagram to show that massing is wide as can be from other side.

C Long: Showed CLC video of fly through massing model of BTC redevelopment. The U represented in the model is completely different from the wedding cake diagram used in PC meetings; staff diagram disingenuous. This is out of scale with Burlington. Amendment back in Commission's court, should say it's out of scale.

III. Report of the Chair

Deferred in interest of time.

IV. Report of the Director

September 29, 2016 at 7pm is City Council Public Hearing on Proposed ZA-16-14 DMUC Overlay.

V. Proposed CDO Amendment ZA-17-04: Neighborhood Activity Center – Cambrian Rise

Y Bradley recused as board chair of former Burlington College.

A Montroll: Continuing discussion following public hearing at last meeting.

D White: Changed building height in response to Commission comments. Lowered height to 65 feet, no change to how it is measured. Inclusionary zoning allows 10' additional height by right. Similarly, inclusionary allows additional lot coverage by right. Modified height and lot coverage in proposed NAC-CR to consider this. Commission was supportive of changes to inclusionary zoning, to reference the newly created district and correct several existing references that were inaccurate, and changes to Appendix A to add additional permitted uses and conditional uses. With these changes incorporated, staff recommends Commission recommendation to Council along with Municipal Bylaw report.

Tuesday, September 27, 2016

J Wallace-Brodeur: What is a public transit terminal?

D White: More than a bus stop; located on private property, may have information, seating or other amenities associated with transit.

H Roen: Changed height from 80' to 65'. How is it measured?

D White: No change. In case of a building set back more than 20' from ROW and property line, take average elevation around the entire building. Worked with E Farrell to ensure this measurement, plus the 10' additional height for inclusionary would work, and it seems to.

A Montroll: Only outstanding issue for the Commission was height; seems to be resolved.

A Friend: Recommend property owner try to make best use of transit, car share, electric vehicle charging, etc.

H Roen: Appreciate the partnership, which is rare and exceptional. Opposing this because the goal of moving development towards N. Avenue is achieved in the development agreement, but not through the amendment.

The Commission approved a motion by E Lee, seconded by A Friend, to forward the amendment and report, with recommendation, to Council. JWB, AM, BB, EL, AF in favor; HR opposed; YB recused.

VI. Municipal Bylaw Amendment Report: ZA-16-14

D White: Commission may make changes to the Municipal Bylaw report because Council modified the proposed amendment. Staff feels that the changes by Council do not rise to the level of effecting how the report was written, and recommends no changes to the report.

A Montroll: Is there a role for Commission on the amendment or just the memo?

D White: Statutory role is specific and limited to changes to make to the memo. Included a copy of the amendment, list of City Council's changes for Commission to judge whether necessary to change report.

E Lee: What does the color-coding represent in the amendment?

D White: Sent Council the amendment as warned for Commission's public hearing. Commission then sent recommendations to Council for updates to the text. Council Ordinance Committee also made a few recommendations. Green highlights show changes to Planning Commission public hearing version of the document; Council referred to them as technical and non-controversial, and incorporating them was the first action. The attached report discusses other changes that Council voted on and approved.

A Friend: Establishment of Pine Street on official map seems limited due to current location of Free Press Building. Seems aspirational; any thinking of how that can happen?

D White: Has been something the City and property owner have been exploring. BTC owner has land rights under the building. Have been working on a design that is feasible and can accommodate emergency vehicles. Illustrations and information are on website.

M Tuttle: Official Map as a tool is intentionally aspirational to identify future opportunities for rights of way and other connections.

I Avilix: When was the report initially transmitted to the Commission?

M Tuttle: Transmitted to Commission for July Public Hearing and subsequently sent to Council. No changes have been made to the report since that time.

I Avilix: Report seems to say that there is no significant change to scale, character, to downtown of the overlay. Commission did not conclude its debate before sending to Council; this is unethical. This is the Commission's last chance to say that it is not character and scale.

Approved by the Planning Commission on October 12, 2016

Tuesday, September 27, 2016

C Long: Despite assertion that density is energy efficient and reduces sprawl, evidence to the contrary. High-rises are energy hogs, even with LEED certification tall building worse than 3-4 stories. EPA study concluded no relationship between density and sprawl. More people will find Burlington less desirable, increasing sprawl.

A Montroll: Commission could approve the report, change the report, or take no action?

K Sturtevant: Recommend the Commission take an action.

J Wallace-Brodeur: Report is a summary of the goals for the amendment. Despite Council's changes, think it's still consistent with the goals stated in this report.

E Lee: Not in a position to make changes to the amendment, but troubled by the LEED Certification section referring to an alternative to LEED being determined by administrative officer. Recommend Ordinance Committee take on definition of "equivalent".

Y Bradley: LEED and other standards change rapidly. Rather than define what the standard is based on today, definition should point to highest standard as recognized among architectural professionals at the time. Ask staff to provide language for the Commission to review and consider incorporating in future amendments.

E Lee: If we work on this, then comfortable sending the report back to Council.

Commission agrees with this approach.

The Commission unanimously approved a motion by J Wallace-Brodeur, seconded by Y Bradley, to approve the report as is and return City Council.

VII. Public Hearing ZA-16-11: Enforcement Period of Limitations

Chair opened the public hearing at 6:43pm.

D White: Amendment makes clear limitations on municipal enforcement of zoning violations to be consistent with state statute, and how to resolve conflicting information in public records.

C Long: If wish is to stabilize neighborhoods, why simply wipe away violations? People blatantly ignore rulings from DRB, parking and over-occupancy violations. City doesn't have tools for enforcement, why just say "it's ok"? Up-zoning related to the mall is allowing property owners to convert houses into multiple units and make big bucks. Need teeth in current laws.

E Lee: This does not include parking violations, and properties not in conformity with the family definition. This would not apply to the two scenarios mentioned.

K Sturtevant: Doesn't apply to parking to the extent that it does not preempt state law.

C Long: A striped parking lot and a parking lot in a backyard are different. Does this distinguish between parking as a use and parking as a structure?

K Sturtevant: Case law establishes parking as a use when it is not accessory to the use of property; i.e. renting out spaces for an off-site use. A court case deemed that scenario a use violation, not a structural violation. If expand a parking lot, that is structural.

A Friend: Recuse from discussion; party to a suit in neighborhood regarding these issues.

S Bushor: Not sure about motivation for this amendment. Why wipe slate for violations that have gone on for 15 years? City's goal is to bring things into compliance, this expands non-conformities and violations. Not supportive; own opinion separates quality of life from income earned from investment property.

Chair closed the hearing at 6:54pm.

B Baker: City's past way of doing business misled property owners and misinterpreted statute. State statute says 15 years, but doesn't distinguish between use and construction violations. Purpose of amendment is to establish

Tuesday, September 27, 2016

bright line of 15 years, which was state intent. City did not always know about use violations, but generally has records of construction violations. This establishes guidance for process for when City knew about violations. Need to make it clear for people who tried to comply with the law, and for the people at the City who interpret the law.

J Rippa: Not about hiding something that the City didn't know about. It is about things that are obvious that the City does know about, with no way to resolve. Not a pass for people who have intentionally broken the law.

H Roen: Key is that the City knew about it, but did not take corrective action. Does City sending a notice of violation constitute taking corrective action?

Y Bradley: City holds tremendous power if they say something has to be done a certain way; average homeowner doesn't know what to do. A lot of times these issues are revealed long after the fact when properties transfer, City can't find a record, and it becomes the burden of seller. Not about people sneaking things in, about protecting people from damages by City's past negligence and poor records. Not a regression, but an act of fairness for people who tried to do the right thing.

E Lee: A complaint does not constitute "knowing" unless it is verified by the City. This is concerning because some feel that there is not enough resources in the department to follow up on complaints.

B Baker: A notice of zoning violation is only place in statute where staff has authority to levy fines without a judge's order. It is not onerous to issue a violation; this is balanced. Violations have to be responded to in 8 days; typically they comply because financial risk is high.

K Sturtevant: When a notice of violation is issued, there are 7 days to cure and 15 days to appeal.

D White: Need to separate city having resources to administer ordinance from whether or not the ordinance is the right one. State statute limits how long a zoning violation can exist; this amendment clarifies for property owners, and provides guidance to staff on how to administer and deal with conflicting records.

J Wallace-Brodeur: Have heard a lot of concerns, Commission has done best to provide a path forward that is reasonable. City needs to coordinate property records better, afford protection for people trying to do the right thing without taking too far.

The Commission approved a motion by J Wallace-Brodeur, seconded by Y Bradley, to forward the amendment and report, with recommendation, to Council. Approved by JWB, YB, AM, BB, HR; EL opposed; AF recused.

VIII. Public Hearing ZA-16-12: Rezone Fletcher Place to R-M

Chair opened the public hearing at 7:17pm.

D White: Map change reflects rezone of Fletcher Place to Residential Medium following property lines.

R Butani: Residential designation conforms to use of properties. Petition signed by current and past homeowners, as well as at least one previous attempt to rezone street in past. Street has many historic properties and is residential, except UVM's parking and transportation office. UVM property at 50 Fletcher Place has been residential. Why the street is zoned Institutional is a mystery. N Reid was an original signer who has reversed her opinion, portrayed intent previous owner of her home that would maintain as residential. Original petition came from a neighborhood meeting, predates purchase of our home. Please apply appropriate zoning designation to be consistent with blossoming neighborhood.

L Ravin: UVM objects to university owned property being rezoned R-M. All of the property surrounding 50 Fletcher Place is owned and used for institutional use. UVM will only support a change to the zoning for 50 Fletcher Place, if the City considers the university's request to consider the Trinity Campus overlay regarding density and front setbacks. This approach would allow the Commission, university and neighbors to review plans for Trinity Campus and consider its relationship to the neighborhood.

Tuesday, September 27, 2016

S Bushor: Fletcher Place rezoning started with the comprehensive zoning rewrite. Wanted it to be changed to R-L, but totally in support of change to R-M as delineated on the map. R-M allows same housing density as IZ, uses change. UVMCM signed MOU with the neighborhood saying they would not buy up property in the neighborhood. In Ward 1, neighbors form alliances to protect properties for families when they go up for sale. UVM did not own Trinity Campus in the past; UVM could use 50 Fletcher Place for same residential density, but use it as a buffer with a neighborhood. Trying to preserve a street surrounded by IZ, this was a huge zoning error.

B Hickock: Support R-M zoning, except the decommissioned school. Use property boundaries; anything else would be arbitrary, spot zoning.

N Reid: Neighbors' comments about my property purchase are bogus. Will the Commission consider other options for boundary lines?

A Montroll: Have considered other options, think we are at the point of moving on.

N Reid: Lot line adjustment approved to establish portion of property, intend to sell. Live in an urban part of the City with institutions; not opposed to buildings to bring more of a residential feel.

B Owre: Street has been a small, cohesive residential neighborhood. Strongly in favor of change to R-M that has been proposed. Read list of names and anecdotes regarding properties on street. Neighborhood exists the way it does as a mixture of large and small lots; would be a mistake to rezone following alternative boundaries that have been proposed, would be bad precedent for the City.

L Ravin: UVM not asking not to ever rezone 50 Fletcher Place; asking to table request until evaluate the entire Trinity Campus.

A Friend: Does university already have a plan for Trinity Campus?

L Ravin: Have a plan; came to Commission with rezone request that was tabled.

S Gustin: The lot line adjustment is within an appeal period, so need to consider property boundaries as they are on the map. Council can consider boundaries as part of their review.

Chair closed the hearing 7:46pm.

Commission approved motion by B Baker, seconded by E Lee, to forward the amendment and report, with recommendation, to Council. Approved by JWB, AM, BB, HR, EL, AF; YB opposed.

IX. Public Hearing ZA-17-01: Off-Site Parking

Chair opened the hearing at 7:47pm.

D White: Define acceptable off-site parking facilities, to what degree off-site parking can satisfy parking requirements.

Chair closed the hearing at 7:48pm.

Commission unanimously approved motion by Y Bradley, seconded by J Wallace-Brodeur, to forward the amendment and report, with recommendation, to Council.

X. Public Hearing ZA-17-02: Family Daycare Exemptions and Preschools

Chair opened the hearing at 7:50pm.

D White: Provide clarity for various types of daycares, particularly exempting daycare homes consistent with state statute, and add preschools, which was previously absent from Appendix A Use Table.

Chair closed the hearing at 7:51pm.

Tuesday, September 27, 2016

D White: To be consistent with state statute, staff recommends replacing "up to six (6) pre-school plus four (4) school-aged" with "up to twelve (12)" and striking "a Family daycare center".

A Friend: What if a family already has 10 children in the home?

D White: Homes in which families have children of their own are separate category and exempt.

The Commission unanimously approved motion by E Lee, seconded by A Friend, to forward the amendment with staff modifications and report, with recommendation, to Council.

XI. Public Hearing ZA-17-03: Withhold Permit

Chair opened the hearing at 7:57pm.

S Gustin: Create incentive to correct outstanding zoning violations and close out expired permits.

Chair closed the hearing at 7:58pm.

Commission approved motion by Y Bradley, seconded by J Wallace-Brodeur to forward the amendment and report, with recommendation, to Council.

XII. Committee Reports

Executive Committee: A Montroll reports the committee will meet September 28 at 12:30pm.

Ordinance Committee: B Baker reports the committee will meet October 10 to reorganize and set priorities for the year.

Long-Range Committee: H Roen reports the committee has been on hold for summer; increasingly concerned losing momentum on planBTV South End. M Tuttle: No update. E Lee: too much going on in community, not much bandwidth to finish planBTV South End right now.

XIII. Commissioner Items

E Lee: Update on the permit reform study which is looking at historic properties?

D White: No update.

XIV. Minutes & Communications

The Commission unanimously approved a motion by Y Bradley, seconded by A Friend, to approve the minutes and communications.

XV. Adjourn

The Commission unanimously approved a motion by Y Bradley, seconded by B Baker, to adjourn at 8:01pm.



A Montroll, Chair

DATE: October 13, 2016



Submitted by: Meagan Tuttle, Comprehensive Planner